



Docket No.: PODON.001A

February 1, 2007

Page 1 of 2

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### TRANSMITTAL LETTER

### SUPPLEMENTAL CORRECTED APPEAL BRIEF

Applicant : Patrick J. O'Donnell  
App. No : 09/557,234  
Filed : April 24, 2000  
For : METHOD AND APPARATUS FOR  
DISLODGING INSECTS FROM  
PLANTS  
Examiner : A. Valenti  
Art Unit : 3643

#### CERTIFICATE OF MAILING

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February 1, 2007

Glen L. Nuttall, Reg. No. 46,188

#### Mail Stop Appeal Brief - Patents

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

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(X) Supplemental Corrected Appeal Brief in 79 pages.

(X) Return prepaid postcard.

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The present application qualifies for Small Entity Status under 37 CFR 1.27.

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1 Month Extension	1.17(a)(1)	2251 (\$60)		\$60
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Docket No. : PODON.001A

**Customer No.: 20,995**

Application No. : 09/557,234

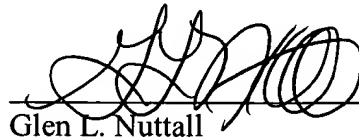
Filing Date : April 24, 2000

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(X) A check in the amount of **\$60** is enclosed.

Dated: February 1, 2007



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PODON.001A

PATENT

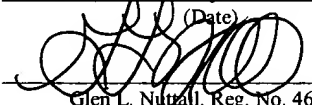
**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

Applicant : Patrick J. O'Donnell  
Appl. No. : 09/557,234  
Filed : April 24, 2000  
For : METHOD AND APPARATUS  
FOR DISLODGING INSECTS  
FROM PLANTS  
Examiner : A. Valenti  
Group Art Unit : 3643

**CERTIFICATE OF MAILING**

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February 1, 2007

(Date)  
  
Glen L. Nuttall, Reg. No. 46,188

**SUPPLEMENTAL CORRECTED APPEAL BRIEF**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

This Supplemental Corrected Appeal Brief is submitted in response to a Notification of Non-compliant Appeal Brief mailed December 1, 2006, in which the Examiner objected to the SUMMARY OF CLAIMED SUBJECT MATTER section, and requested this section be changed to provide a direct reference from the specification and/or drawings for each structural limitation and/or method step of the independent claims. This paper satisfies the Examiner's request.

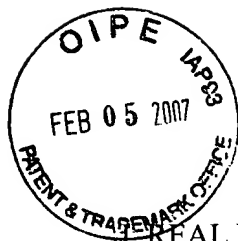
Please replace the originally-filed Appeal Brief and previously-filed Corrected Appeal Brief with this Supplemental Corrected Appeal Brief.

Should any additional fees be necessary, please charge them to our Deposit Account No. 11-1410.

02/06/2007 RMEBRAHT 00000029 09557234

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**Filed** : April 24, 2000

**I. REAL PARTY-IN-INTEREST**

The real party-in-interest in this appeal is the Applicant and inventor, Patrick J. O'Donnell.

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Filed : April 24, 2000

## **II. RELATED APPEALS AND INTERFERENCES**

Applicant is unaware of any related appeals or interferences.

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**Filed** : April 24, 2000

### **III. STATUS OF THE CLAIMS**

Claims 19-28 and 33-40 are pending in this Application. Claims 1-18 and 29-32 have been cancelled and are thus not at issue in this appeal. Claims 19-28 and 33-40 currently stand rejected; the rejection of these claims is now being appealed. A listing of the claims on appeal is included in the Appendix attached hereto.

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**Filed** : April 24, 2000

#### **IV. STATUS OF AMENDMENTS**

No amendments have been filed subsequent to the final rejection mailed September 24, 2004. However, Applicant filed a Request for Reconsideration on March 24, 2005. The Examiner has responded to the Request for Reconsideration in an Advisory Action mailed December 5, 2005. No further amendments or Requests for Reconsideration have been filed.

## V. SUMMARY OF CLAIMED SUBJECT MATTER

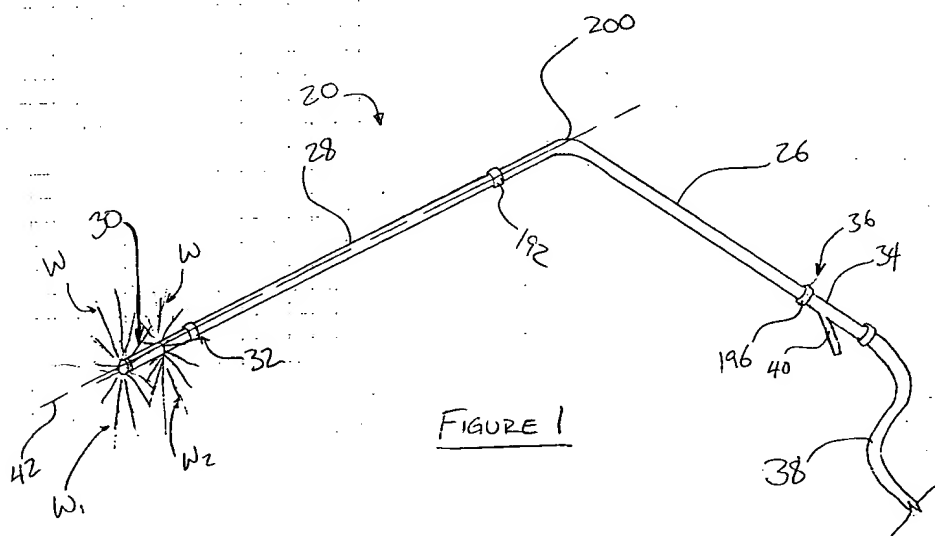
### **A. Some Gardeners Wish For Chemical-Free Insect Removal And Plant Cleaning**

A pervasive gardening problem is the invasion of insects that feed on garden plants, damaging the health of the plant and often creating unsightly residues. Typically, insects prefer the bottom sides of plant leaves. It is known to spray plants with water to remove the insects. However, spraying tends to be cumbersome, difficult, and time-consuming, and it generally meets with only limited success.<sup>1</sup> The methods recited in independent Claims 19 and 36 solve this problem, and enable users to quickly, easily and very effectively dislodge insects from and clean a plant.

The following brief summary of embodiments disclosed in Applicant's application aids understanding of the claim limitations.

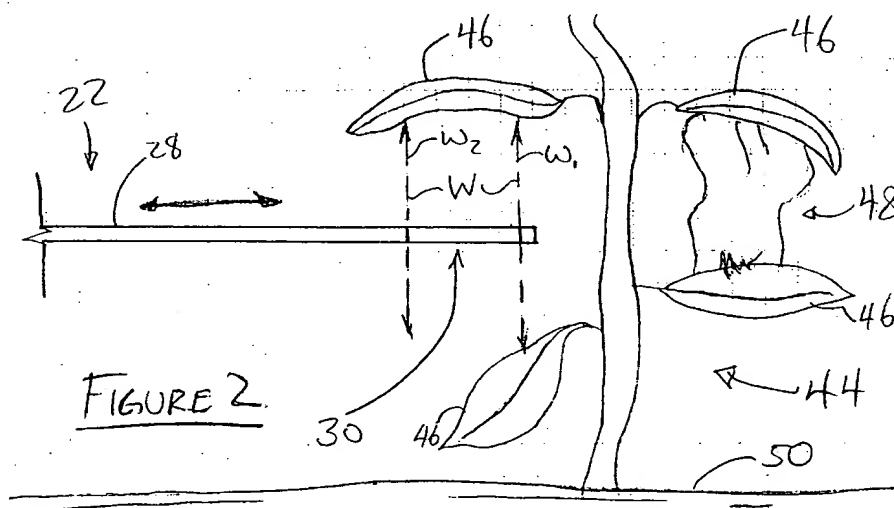
**B. Applicant's Elongate Sprayer Directs A Water Flow Outwardly From An Axis Of The Nozzle Around Substantially The Entire Circumference Of The Nozzle Axis, And Enables A User To Treat Tops And Bottoms Of Plant Leaves**

Figure 1, reproduced below, is a perspective view of an embodiment of the handheld sprayer. The sprayer 20 has a handle 26, a body 28, and a nozzle 30 at a distal end of the body. The sprayer 20 also has a bend 200. The illustrated embodiment shows two spaced-apart sprays directed outwardly from an axis of the nozzle, but a single spray<sup>2</sup> can also be used.



<sup>1</sup> See Specification, page 2, line 18 – page 3, line 14.

Figure 2, reproduced below, illustrates a method of using the device to treat a plant. When the nozzle axis is generally horizontal, the water spray simultaneously impacts the bottom sides of some leaves and the top sides of other leaves. The flow of water dislodges insects and also carries such insects off of the plant as the sprayer is advanced retracted within the plant.<sup>3</sup>



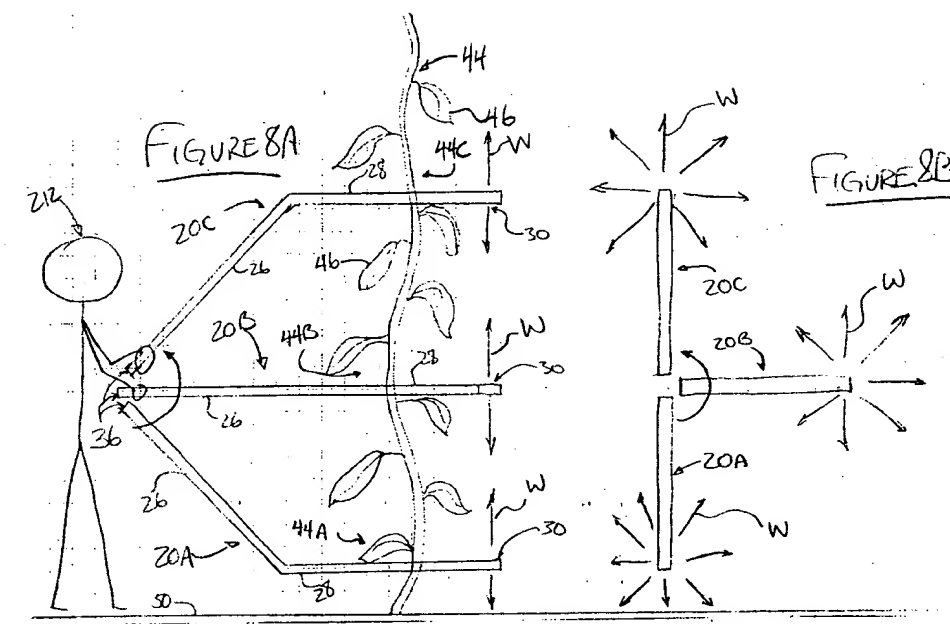
C. Applicant Teaches A Convenient, Quick And Effective Method For Using The Device To Access And Treat All Areas Of The Plant Without Forcing The User To Bend And Contort

Figures 8A and 8B, reproduced below, illustrate an embodiment of Applicant's unique method of using his sprayer. A user standing in one place can treat an entire large and tall plant 44 without bending and contorting the user's body.<sup>4</sup>

<sup>2</sup> See *Id.*, at page 6, lines 14-31.

<sup>3</sup> See *Id.*, at page 7, lines 4-31.

<sup>4</sup> See *Id.*, at page 14, lines 24-25.



As shown, during use the axis of the nozzle (30) is kept substantially horizontal, and thus the circumferential spray W is directed generally up and down, and not toward the user. The user repeatedly inserts and removes the nozzle in various areas of the plant<sup>5</sup>. The circumferential spray W dislodges insects and insect residues, and the water flow carries them off the plant.

Figure 8B presents a view of Figure 8A taken from the user's direction. This figure shows how the elevation of the sprayer can easily be changed by rotating the sprayer about the handle, not by the user bending or squatting. For example, when the sprayer is in the low elevation 20A, the user simply rotates the handle about 90° to elevation 20B. Preferably, the spray apparatus is manipulated so that the nozzle remains in a horizontal axis, and the circumferential sprays are not directed towards the user. Thus, the user effectively lifts the spray nozzle without bending.<sup>6</sup>

This process can be repeated for substantially all areas of plants of many sizes without requiring the user to crouch, reach or otherwise change any "aim" of the nozzle. Since the nozzle sprays a circumferential spray, the sprayer behaves the same regardless of how the user has rotated the handle so long as the user maintains the nozzle axis in a generally horizontal attitude.<sup>7</sup>

<sup>5</sup> See *Id.*, at page 14, line 14 – page 15, line 3.

<sup>6</sup> See *Id.*

<sup>7</sup> See *Id.*, at page 14, lines 27-30.

The methods recited in independent Claims 19 and 36 cover such convenient treatment of a plant by rotating the apparatus at least about 90°. Further, these claims recite performance of the method in conjunction with a hand held spraying apparatus having a unique structure that complements the other recited steps. The following summary goes through each limitation of Claims 19 and 36 more specifically.

**D. Invention of Claim 19 Provides Quick, Thorough and Effective Insect Removal and Plant Cleaning**

Limitations of independent Claim 19 will be briefly summarized in this section by reference to the specification and drawings.

**1. A method for removing insects from and cleaning a plant having leaves**

A concept of using a wall of water to remove insects and clean plants is introduced at page 6, lines 14-16 of the specification. Embodiments are discussed in connection with Figure 2 at pages 7, line 4 – page 8, line 6, and Figures 8A-B at page 14, line 14 – page 15, line 2 of the specification.

**2. providing a hand held spraying apparatus having a handle**

Figure 1 presents a sprayer 20 having such a handle 26. Embodiments of the sprayer 20 and handle 26 are introduced at page 6, lines 14-18 of the specification. Reference to embodiments of these structures is found throughout the specification and drawings, and particularly at Figures 7A-B and page 13, line 24 – page 14, line 7.

**3. an elongate body portion**

Figure 1 presents an elongate body 28. An embodiment of the body 28 is introduced at page 6, lines 14-20 of the specification. Reference to embodiments of the body is found throughout the specification and drawings, and particularly at Figures 7A-B and page 13, lines 18-23.

4. **a nozzle portion at a distal end of the body portion, the nozzle portion having a longitudinal axis and being adapted to direct a generally continuous water flow in a direction outwardly from the axis around substantially the entire circumference of the nozzle axis**

An embodiment of the nozzle 30 attached to a distal end of the body 28 is introduced in connection with Figure 1 at page 6, lines 18-20 of the specification. More discussion of embodiments of these structures is found at page 6, line 27 – page 7, line 4, which also presents and discusses a longitudinal axis 42 of the nozzle 30, and presents water walls W1, W2 that are generally continuous water flows in a direction outwardly from the axis around substantially the entire circumference of the nozzle axis. Although such water flow is initially disclosed as vertically-directed, other embodiments employing a single water wall (see page 8, lines 27-29) and angled sprays (see page 8, lines 18-26) are also disclosed.

5. **the apparatus configured so that moving the handle correspondingly moves the nozzle portion**

Figure 1 shows the handle 26, body 28 and nozzle 30 interconnected so that they would move together. Page 6, lines 1-26 discusses these structures as interconnected, and page 7, lines 4-12 discusses the interconnected sprayer 20 being used/moved in connection with Figure 2. Page 13, lines 13-17 clarifies that the body 28 and handle 26 can be separately formed or unitarily formed as a single piece.

6. **providing a source of water under pressure**

As discussed on page 6, lines 19-26 and in connection with Figure 1, a garden hose 38 or other source of water under pressure can be employed.

7. **placing the spraying apparatus into communication with the source of water under pressure**

As discussed on page 6, lines 19-26 and page 14, lines 2-4, and in connection with Figure 1, the body 28 can be connected to a garden hose 38 or other source of water under pressure.

8. **positioning the nozzle adjacent an underside of a plant leaf so that a portion of the water directed by the nozzle impacts the leaf underside and the longitudinal axis of the nozzle is generally horizontally disposed at a first elevation**

Figure 2 shows the nozzle 30 directing water W at leaves 46 and the body 28 disposed generally horizontally. A discussion of such positioning and use is found at page 7, lines 4-25.

9. **advancing and retracting the nozzle generally horizontally so that a flow of water impacts the leaf underside along its length**

Figure 2 shows the nozzle 30 directing water W at leaves 46 and the body 28 disposed generally horizontally, as well as a directional arrow showing advancing and retracting. A discussion of such positioning, advancing and retracting during use is found at page 7, lines 4-25.

10. **rotating the apparatus at least about 90° so that the longitudinal axis of the nozzle is moved to a second elevation but remains generally horizontally disposed during rotation**

Figures 8A and 8B depict an embodiment of a sprayer 20 being used at different elevations/regions of a plant – a bottom region 44A, a middle region 44B and an overhead region 44C. Page 14, line 14 – page 15, line 2 of the specification discusses how the apparatus is rotated in order to place the nozzle 30 in a substantially horizontal orientation in each of the regions. Figure 8B shows the sprayer being rotated about 90° between positions 20A & 20B and between positions 20B & 20C, and that the sprayer is rotated more than 90° to get from position 20A to position 20C.

11. **advancing and retracting the nozzle generally horizontally at the second elevation**

Page 14, line 14 – page 15, line 2 discusses that the apparatus is used at multiple elevations, and page 7, line 4-25 and Figure 2 depict using the apparatus as involving advancing and retracting the nozzle generally horizontally.

E. **Invention of Claim 36 Provides Quick, Thorough and Effective Insect Removal and Cleaning of Large Plants**

Limitations of independent Claim 36 will be briefly summarized in this section by reference to the specification and drawings.

**1. A method of removing insects from and cleaning an interior portion of a leafy plant having a first region and a second region that are disposed at different vertical elevations**

A concept of using a wall of water to remove insects and clean plants is introduced at page 6, lines 14-16 of the specification. A basic discussion of use of an embodiment is discussed in connection with Figure 2 at pages 7, line 4 – page 8, line 6. Figures 8A-B and page 14, line 14 – page 15, line 2 of the specification explicitly show a method of cleaning a plant having multiple regions (44A, 44B, 44C) at different elevations.

**2. providing a hand held spraying apparatus having a handle**

Figure 1 presents a sprayer 20 having such a handle 26. Embodiments of the sprayer 20 and handle 26 are introduced at page 6, lines 14-18 of the specification. Reference to embodiments of these structures is found throughout the specification and drawings, and particularly at Figures 7A-B and page 13, line 24 – page 14, line 7.

**3. an elongate body having a length of at least about one foot**

Figure 1 presents an elongate body 28. An embodiment of the body 28 is introduced at page 6, lines 14-20 of the specification. Reference to embodiments of the body is found throughout the specification and drawings, and particularly at Figures 7A-B and page 13, lines 18-23, which discuss embodiments having specific dimensions.

**4. a nozzle at a distal end of the elongate body, the nozzle configured to direct a flow of water outwardly generally around a longitudinal axis of the nozzle portion**

An embodiment of a nozzle 30 attached to a distal end of the body 28 is introduced in connection with Figure 1 at page 6, lines 18-20 of the specification. More discussion of embodiments of these structures is found at page 6, line 27 – page 7, line 4, which also presents and discusses a longitudinal axis 42 of the nozzle 30, and presents water walls W1, W2 that are water flows in a direction outwardly generally around the longitudinal axis of the nozzle. Although such water flow is initially disclosed as vertically-directed, other embodiments employing a single water wall (see page 8, lines 27-29) and angled sprays (see page 8, lines 18-26) are also disclosed.

5. **the nozzle portion fixedly connected to the handle and being configured to move with the handle**

Figure 1 shows the handle 26, body 28 and nozzle 30 interconnected so that they would move together. Page 6, lines 1-26 discusses these structures as interconnected, and page 7, lines 4-12 discusses the interconnected sprayer 20 being used/moved in connection with Figure 2. Page 13, lines 13-17 clarifies that the body 28 and handle 26 can be separately formed or unitarily formed as a single piece.

6. **placing the spraying apparatus into communication with a source of water under pressure**

As discussed on page 6, lines 19-26 and page 14, lines 2-4, and in connection with Figure 1, the body 28 can be connected to a garden hose 38 or other source of water under pressure.

7. **while maintaining the nozzle axis in a generally horizontal attitude, repeatedly advancing and retracting the nozzle into and out of the interior portion of the plant at a plurality of locations in the first region so that water flow is directed onto undersides of interior leaves of the plant and top sides of interior leaves of the plant**

Figure 2 shows the nozzle 30 directing water W at both top sides and undersides of leaves 46 and the body 28 (and thus the nozzle axis) disposed in a generally horizontal attitude, as well as a directional arrow showing advancing and retracting. Page 7, line 4 – page 8, line 11 includes a discussion of such positioning, advancing and retracting during use, and also states that treatment preferably occurs at a plurality of plant locations (page 8, lines 4-6) and makes clear that both the tops and undersides of leaves are simultaneously treated (page 8, lines 7-11).

8. **rotating the apparatus about the handle at least about 90° to change the elevation of the nozzle axis from a position in the first region to a position in the second region without substantially changing its generally horizontal attitude**

Figures 8A and 8B depict an embodiment of a sprayer 20 being used at different elevations/regions of a plant – a bottom region 44A, a middle region 44B and an overhead region 44C. Page 14, line 14 – page 15, line 2 of the specification discusses how the apparatus is rotated in order to move the nozzle 30 between each of the regions while keeping it in a

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Filed : April 24, 2000

substantially horizontal orientation. Figure 8B shows the sprayer being rotated about 90° between positions 20A & 20B and between positions 20B & 20C, and that the sprayer is rotated more than 90° to get from position 20A to position 20C.

9. **advancing and retracting the nozzle into and out of the interior portion of the plant at a plurality of locations in the second region.**

Page 14, line 14 – page 15, line 2 discusses that the apparatus is used at multiple elevations, and page 7, line 4 – page 8, line 11 and Figure 2 depict using the apparatus as involving advancing and retracting the nozzle generally horizontally at a plurality of plant locations.

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**VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL**

The following grounds of rejection are to be reviewed:

- A. **Whether It Was Proper To Reject Claims 36-38 Under 35 U.S.C. § 103(A) As Unpatentable Over U.S. Patent No. Des425,603 To Guo<sup>8</sup> In View Of The Kimbrew-Walter Roses "Jet-All" Brochure<sup>9</sup>.**
- B. **Whether It Was Proper To Reject 19-28, 33-35, 39 And 40 Under 35 U.S.C. § 103(A) As Unpatentable Over U.S. Patent No. 3,737,105 To Arnold<sup>10</sup> In View Of Guo And Jet-All.**

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<sup>8</sup> Hereinafter referred to as "Guo".

<sup>9</sup> Hereinafter referred to as "Jet-All".

<sup>10</sup> Hereinafter referred to as "Arnold".

## VII. ARGUMENT

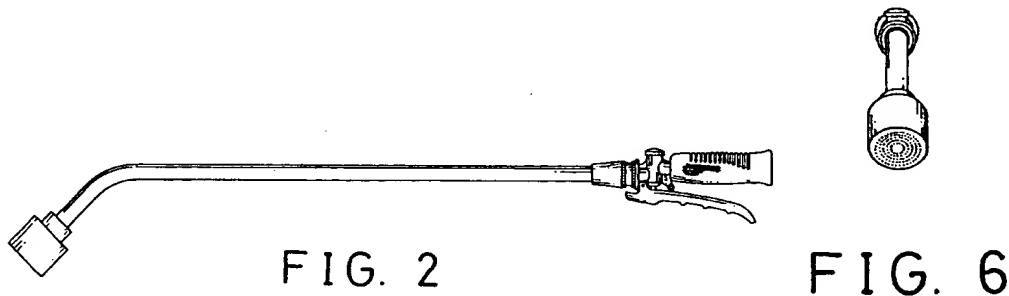
### A. Rejections Under 35 U.S.C. § 103(a)

Under Section 103, the Examiner bears the burden of establishing a *prima facie* case of obviousness. An Examiner can satisfy this burden only by introducing prior art that discloses every element of the claimed invention with some objective teachings in the record that suggest arranging the prior art to produce the Applicant's claimed invention.<sup>11</sup>

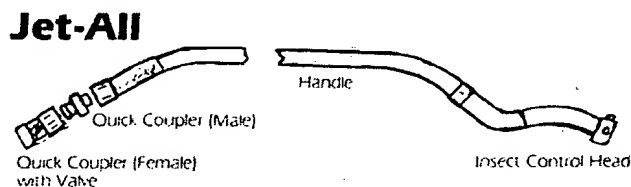
### B. Rejection of Claims 36-38 Under 35 U.S.C. § 103(a)

The Examiner rejected Claims 36-38 under 35 U.S.C. § 103(a) as unpatentable over the Guo sprayer in view of the method of Jet-All.

The Guo reference is a design patent for a sprayer gun. Figures 2 and 6 of Guo, reproduced below, are representative of the Guo disclosure.



The Jet-All sprayer is described in a brochure. Portions of the brochure are reproduced below, including a diagram of the Jet-All and a photograph showing the Jet-All sprayer in use.



<sup>11</sup> See M.P.E.P. § 2143 To establish *prima facie* obviousness, "the prior art reference (or references when combined) must teach or suggest all the claim limitations."; *see also In re Fine*, 837 F.2d 1071, 1074, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988); *In re Bell*, 991 F.2d 781, 782, 26 U.S.P.Q.2d 1529, 1531 (Fed. Cir. 1993) ("A *prima facie* case of obviousness is established when the teachings of the prior art itself would appear to have suggested the claimed subject matter to a person of ordinary skill in the art.").



As illustrated in the brochure, the Jet-All sprayer includes a handle with an “insect control head” connected to the distal end of the handle. The head has three discrete, upwardly-directed jets disposed thereon and is curved “to permit spraying under the leaves of miniature roses as well as the taller varieties without spray back on the user.”<sup>12</sup> As shown in the photographs, the water spray from the jets is directed generally upwardly and away from the user. When the unit is low to the ground, the water spray is nearly horizontal. Presumably, the unit is angled upwardly to spray the “taller varieties” of roses; however, the jet of water will still be directed generally upwardly and away from the user.

1. **The Combination Of Guo And Jet-All Does Not Teach The Structure Recited In The Claims**

In the Office Action discussion rejecting Claims 36-38, the Examiner asserts that “[i]t would have been obvious to one of ordinary skill in the art at the time of the invention to apply the apparatus taught by Guo in a method of insect removal taught by ‘Jet-all’.”<sup>13</sup> Thus, the Examiner’s rejection is based only on the structure of Guo used according to the method taught by Jet-All, and none of the structure of Jet-All.

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<sup>12</sup> Jet-All brochure.

<sup>13</sup> Office Action mailed 9/24/04, Page 3.

When characterizing the Guo sprayer, the Examiner states that the nozzle is “adapted to direct water flow outwardly around the circumference of the nozzle axis.”<sup>14</sup> However, with reference again to Figures 2 and 6 of Guo, which are reproduced above, the Guo nozzle has water holes formed through its face, which appears to be planar and perpendicular to an axis of the nozzle. Thus, it appears that the Guo nozzle directs several discrete streams of water generally along the nozzle axis.<sup>15</sup> In contrast, Applicant’s Claim 36 requires, *inter alia*, a “nozzle configured to direct a flow of water outwardly generally around a longitudinal axis of the nozzle portion.” Guo does not teach this limitation.

The Examiner also stretches the disclosure of the Jet-All brochure. For example, the Examiner states, “Jet-All teaches . . . the longitudinal axis of the nozzle is generally horizontally disposed at a first elevation and advancing and retracting the nozzle generally horizontally....”<sup>16</sup> With reference again to the above figures reproduced from the Jet-All brochure, the Jet-All brochure shows the device being used such that an axis of the nozzle is at a substantial angle, clearly more than 45°, from horizontal. Perhaps Jet-All is capable of being used at other angles, but it is always shown in an attitude in which the nozzles are oriented to direct spray upwardly from the nozzle and away from the user. In fact, as apparent from the Jet-All sketch, if the Jet-All device is to be truly oriented so that the nozzle axis is generally horizontal, the handle of the device will necessarily be lower than the nozzle when the nozzle sprays upwardly.

Applicant asserts that the Jet-All brochure does not teach what the Examiner says it teaches. Accordingly, the method of Jet-All does not teach at least the limitation “while maintaining the nozzle axis in a generally horizontal attitude, repeatedly advancing and retracting the nozzle into and out of the interior portion of the plant at a plurality of locations in the first region so that water flow is directed onto undersides of interior leaves of the plant and top sides of interior leaves of the plant” of Claim 36.

Since the references do not disclose at least these claim limitations, Applicant requests that the rejection of these claims be reversed.

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<sup>14</sup> *Id.*, Page 2.

<sup>15</sup> Incidentally, the Jet-All device also only emits discrete streams of water.

<sup>16</sup> *Id.*, Page 2.

**2. None Of The Cited References Explicitly Teaches The Claimed Method, And  
The Cited Combination Does Not Teach Or Suggest The Claimed Method**

Notwithstanding the above, the Examiner contends that Guo “contains all of the structural limitations of applicant’s claim language and therefore has the capability of performing the method steps presented by ‘Jet-All’.” The Examiner further states:

The intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.<sup>17</sup>

The Examiner has erroneously stated and applied the patent law. 35 U.S.C. § 101 states “Whoever invents or discovers any new and useful process, machine . . . may obtain a patent therefor . . . .” The patent statute further clarifies that “The term ‘process’ means process, art or method, and *includes a new use of a known process, machine, manufacture*, composition of matter, or material.”<sup>18</sup> Further, the M.P.E.P. clarifies, “New and unobvious uses of old structures and compositions may be patentable.”<sup>19</sup>

The claimed invention is structurally different than the cited art; however, even if it were structurally similar to the prior art, Applicant contends that the claimed invention would still be patentable over the cited art. This is because it uses such structure in a manner never before recognized, taught or suggested.

For example, Claim 36 requires, *inter alia*, “rotating the apparatus about the handle at least about 90° to change the elevation of the nozzle axis from a position in the first region to a position in the second region without substantially changing its generally horizontal attitude.” The Examiner admits that neither Guo nor Jet-All alone explicitly or impliedly teaches this method. In fact, it is plain from the Jet-All brochure that rotation of the sprayer about the handle to change the elevation is never contemplated. Nevertheless, the Examiner contends that the combination of Guo and Jet-All “inherently” teaches this claim limitation.

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<sup>17</sup> *Id.*, Page 3.

<sup>18</sup> 35 U.S.C. § 100(b)(emphasis added).

<sup>19</sup> M.P.E.P. § 2112.02.

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3. **The Examiner Has Incorrectly Applied The Doctrine Of Inherency And Has Not Satisfied Her Burden With Regard To Inherency**

The Examiner specifically states “Guo as modified inherently teaches rotating the apparatus at least about 90° so that the longitudinal axis of the nozzle is moved to a second elevation but remains generally horizontally disposed during rotation and advancing and attracting the nozzle generally horizontally at the second elevation to efficiently and effectively treat all size plants.”<sup>20</sup> The Examiner has not provided factual evidence to satisfy this contention of inherency. Moreover, the Examiner has incorrectly applied the principle of inherency.

a. **Inherency applies only to the teachings of a single prior art reference, but the Examiner has applied inherency to a combination of references.**

The Examiner does not contend that the Jet-All reference inherently teaches the method recited in Claim 36, nor does the Examiner contend that the Guo reference inherently teaches the method. Rather the Examiner contends that a combination of Guo and Jet-All inherently teaches the method. Although Applicant disagrees with the Examiner that the combination inherently teaches the claimed method, Applicant first notes that the Examiner has misapplied the principle of inherency.

The Federal Circuit has established that there is no inherent disclosure when a prior art reference must be modified or reconfigured in a special way to produce a missing limitation.<sup>21</sup> Combining a prior art reference with another reference and then asserting that the combination has inherent properties is substantially the same as modifying or reconfiguring either one of the references in a special way to produce a missing limitation. Accordingly, the Examiner’s assertion that the Guo/Jet-All combination has inherent properties that are not inherent to either of the references taken alone is not legally supported.

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<sup>20</sup> Office Action dated 9/24/04, page 3 (emphasis added).

<sup>21</sup> See *Electro Medical Systems S.A. v. Cooper Life Sciences, Inc.*, 34 F.3d 1048, 1052 (Fed. Cir. 1994) (no inherency found when prior art patent disclosed missing limitation if set to a particular water pressure not explicitly disclosed in the prior art patent); *In re Rijckaert*, 28 U.S.P.Q. 2d 1955, 1956 (Fed. Cir. 1993) (no inherency found when prior art reference disclosed limitation if certain settings were assumed).

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b. **The claim limitations are not necessarily present in the cited combination of references, and are thus not “inherent” to the combination**

As just discussed, it is inappropriate for the Examiner to assert inherency of a combination of references. However, in this case, even if the combined disclosures of Guo and Jet-All were considered, they still would not satisfy the requirements for inherency, and the Examiner has not presented any factual evidence to support her contention of inherency.

Inherency “may not be established by probabilities or possibilities. The mere fact that a certain thing *may* result from a given set of circumstances *is not sufficient*.”<sup>22</sup> Further, for a claim limitation to be inherently disclosed by a reference, “it must be necessarily present and a person of ordinary skill in the art would recognize its presence.”<sup>23</sup>

Further, inherency does not even exist when a missing claim element is very likely, though not necessarily, present in a prior art reference. For example in *Glaxo, Inc. v. Novopharm, Ltd.*,<sup>24</sup> an infringer unsuccessfully asserted that a patent was invalid by inherent anticipation because the claimed chemical compound was the undisclosed product of a process described in a prior art reference. An expert witness performed the prior art process 13 times, each time producing the claimed invention. When performed by others on two occasions, however, the process produced a different compound. The court therefore found that the prior art process could yield either the claimed compound or another compound, and hence the claimed compound was not *necessarily present* in the prior art reference.<sup>25</sup> Thus, *there is no inherent disclosure when any possible interpretation of the reference would not include the missing element*.

The M.P.E.P. states the following concerning inherency:

To establish inherency, the extrinsic evidence must make clear that the missing descriptive matter is *necessarily present* in the thing described in the reference, and that it *would be so recognized* by persons of ordinary skill.<sup>26</sup>

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<sup>22</sup> *In re Oelrich*, 666 F.2d 578, 581, 212 USPQ 323, 326 (CCPA 1981) (emphasis added).

<sup>23</sup> *Crown Operations Int’l Ltd. v. Solutia Inc.*, 62 USPQ2d 1917, 1923 (Fed. Cir. 2002).

<sup>24</sup> 52 F.3d 1043 (Fed. Cir. 1995).

<sup>25</sup> See *Glaxo*, 52 F.3d at 1047-48.

<sup>26</sup> M.P.E.P. § 2112 (emphasis added).

In light of the above discussion, it is clear that for every contention of “inherency,” the Examiner must establish that the method limitation (1) is *necessarily present* in the Guo/Jet-All combination, and (2) that an ordinary person would *recognize* the claimed *method*. The Examiner has not presented facts to establish these points and thus has not satisfied her burden.

One of ordinary skill in the art would not necessarily recognize or wish to perform the claimed method. Even if Guo and Jet-All were combined, there is no motivation for a user to perform the claimed method steps unless taught to do so by some other reference. In fact, *Applicant’s specification is the only reference teaching the motivation to rotate a specially-constructed spraying device in order to change its elevation. “To imbue one of ordinary skill in the art with knowledge of the invention in suit, when no prior art reference or references of record convey or suggest that knowledge, is to fall victim to the insidious effect of a hindsight syndrome wherein that which only the inventor taught is used against its teacher.”*<sup>27</sup>

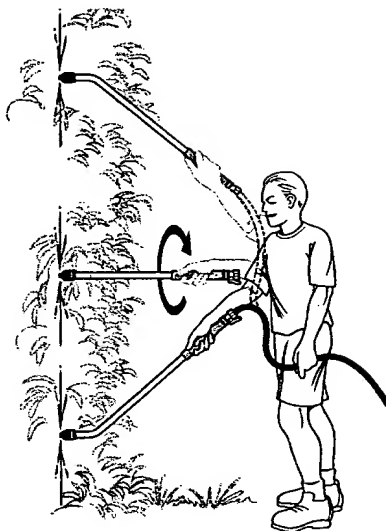
Not only would an ordinary person not recognize Applicant’s claimed method, Applicant has evidence that users find the method “unusual” and can have difficulty performing the method even after having been explicitly taught how to perform it. Applicant’s product was tested by members of the National Home Gardening Club.<sup>28</sup> Applicant’s instructions, a graphical portion of which is reproduced below, were provided to testers along with Applicant’s product. Though many testers immediately grasped the concept, some testers had trouble learning the method.

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<sup>27</sup> *W.L. Gore Assoc., Inc. v. Garlock, Inc.*, 220 USPQ 303, 312-313 (Fed. Cir. 1984) (emphasis added).

<sup>28</sup> Applicant submitted a Declaration on November 8, 2003 including exhibits showing instructional materials that Applicant includes with his device and also including information from a test of Applicant’s product that was performed by the National Home Gardening Club (the “Club”). As part of the Test Program, Applicant submitted his product, which embodies the claims, to several Club members for testing. Applicant paid no money to the Club or to evaluating Club members for participation in the Test Program.

Applicant included explicit graphical instructions with his product; however, some gardeners still had trouble learning how to properly perform the method. The Declaration and exhibits were submitted to the Examiner on November 26, 2003. The 2003 Declaration and exhibits are included in the Appendix.



Narratives from two of the testers are reproduced below.<sup>29</sup>

This is an excellent special-purpose tool that gardeners need and will use. The unusual spray pattern requires a bit of practice (or a raincoat), but it is just what is needed for blasting bugs.<sup>30</sup>

I used the Bug Blaster™ to rid my Lilies of aphids and ants that tend them. Used it several times to keep both under control. First time I used Bug Blaster™ I sprayed myself till I got used to rotate as I raised the wand.<sup>31</sup>

These statements show that people of skill in the art (here, members of the National Home Gardening Club) find Applicant's claimed method counterintuitive, and require practice to get used to the method even after being explicitly taught how to perform it.

The Examiner has not, and indeed cannot, argue that any one of the cited references taken alone inherently discloses the claimed method. For example, the Jet-All reference does not necessarily teach this method, nor is there any evidence that a person of skill in the art would recognize the method from seeing the Jet-All device. The same goes for the Guo/Jet-All combination.

To justify her contentions concerning inherency, the Examiner states that "it is human nature to orient a device in a desired manner to fit the space constraints of the situation." The Examiner goes on to state, "The method steps of the instants [sic] claims are readily apparent

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<sup>29</sup> Other narratives are reproduced later in this brief.

<sup>30</sup> Declaration of Patrick O'Donnell, November 8, 2003, Exhibit B, Member Number: 80722195 (emphasis added).

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during the operation of the device of Arnold and Guo to the application area taught by 'Jet-All'."<sup>32</sup> These statements appear to be factual assertions, of which the Examiner appears to be taking official notice. In Applicant's Request for Reconsideration filed March 24, 2005, Applicant specifically traversed these "factual findings" and requested that the Examiner provide documentary evidence to support each fact-finding statement. In the Advisory Action mailed December 5, 2005 the Examiner responded to the Request for Reconsideration; however, the Examiner ignored Applicant's traversal, and also did not repeat these factual assertions. Since the Examiner has not provided any documentary evidence to support these statements, these statements cannot be used to maintain the rejection.<sup>33</sup>

As discussed above, an assertion of "inherency" requires specific factual support showing that the method limitation is necessarily present in the prior art and that it would be recognized. The Examiner has presented no factual support, and has not satisfied her burden. However, Applicant has presented factual evidence that people find the method "unusual" and have difficulty learning the method even after having been explicitly taught.

**4. The Examiner Has Not Established A Prima Facie Case Of Obviousness.**

An assertion of "obviousness" requires that the references teach all claim limitations. Since the Examiner has not presented facts sufficient to support her inherency arguments, and since the cited references do not teach all of the claim limitations, Applicant respectfully contends that the Examiner's rejection of these claims should be reversed.

**C. Rejection of Claims 19-28, 33-35, 39 And 40 Under 35 U.S.C. § 103(a)**

The Examiner rejected Claims 19-28, 33-35, 39 and 40 under 35 U.S.C. § 103(a) as unpatentable over Arnold in combination with Guo and Jet-All. Applicant contends that not only is there no motivation to combine these references, but the references, even if combined, do not teach or suggest all of the limitations of the claims.

**1. There Is No Motivation To Combine The Cited References**

The Federal Circuit has made clear that "[o]bviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching,

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<sup>31</sup> *Id.*, Member Number: 70052476 (emphasis added).

<sup>32</sup> Office Action dated 9/24/04, page 8.

<sup>33</sup> See M.P.E.P. Section 2144.03(c).

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suggestion or incentive supporting the combination.”<sup>34</sup> Further, references that teach away from one another cannot be properly combined to support an obviousness rejection.<sup>35</sup>

Evidence of a suggestion to combine prior art references may flow from the references themselves, the knowledge of one of ordinary skill in the art, or from the nature of the problem to be solved. However, such suggestion must be “clear and particular”.<sup>36</sup> In *In re Dembiczak*,<sup>37</sup> the applicant claimed an orange plastic trash bag with a jack-o-lantern face printed thereon. The application was rejected as obvious in light of the combination of a reference showing a plastic trash bag and a reference describing a method of making a “paper bag pumpkin”. The Federal Circuit reversed the finding of obviousness and held that there was no suggestion to combine the references. Even though the references “described all of the limitations of the pending claims,”<sup>38</sup> no suggestion, teaching, or motivation to combine the references was particularly identified. Thus, the combination was improper.

## **2. There Is No Motivation To Combine Guo With Arnold**

Arnold discloses a spray nozzle for producing a pair of radially-directed sprays. As discussed above, Guo teaches a handheld sprayer with a nozzle having openings that appear to direct several discrete streams of water in a direction generally along the axis of the nozzle. The Examiner states, “It would have been obvious to one of ordinary skill in the art to modify the teachings of Arnold with the teachings of Guo to provide a handle for the ergonomic advantage illustrated by Guo. Since it is old and notoriously well-known to place extensions/handles on nozzles to reach higher elevations or into narrow areas.”<sup>39</sup> This vague and uncertain “motivation” was drummed up by the Examiner, and certainly is not the type of “clear and particular” teaching required by the law. The Guo reference is a design patent, and thus includes no discussion of the use of the device. Arnold, on the other hand, expressly teaches spray that is directed radially. Arnold discloses a use of its nozzle as “a gas washing apparatus,” and also

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<sup>34</sup> *In re Napier*, 55 F.3d 610, 613, 34 U.S.P.Q.2d 1782,1784 (Fed. Cir. 1995). See, e.g., *In re Stencel*, 828 F.2d 751, 755 (Fed. Cir. 1987).

<sup>35</sup> See *Winner Int’l Royalty Corp. v Ching-rong Wang*, 202 F.3d 1340, 1349-1350 (Fed. Cir. 2000).

<sup>36</sup> *In re Dembiczak*, 175 F.3d 994, 999 (Fed. Cir. 1999).

<sup>37</sup> *id.*

<sup>38</sup> *Id.* at 1000.

<sup>39</sup> Office Action mailed 9/24/04, Page 4.

indicates that “it is also adapted to various other uses as will be apparent to a person skilled in the art.”<sup>40</sup> However, Arnold contemplates no reason to dispose its nozzle on a spray apparatus having the features of Guo.

Furthermore, the Guo and Arnold references would tend to teach away from one another. Specifically, the Guo nozzle and the Arnold nozzle spray water in perpendicularly different directions. Although Guo does not explicitly describe its purpose, the replacement of Guo’s nozzle with the Arnold nozzle would materially change the operation of the Guo reference because the Guo sprayer would no longer direct water in the direction the nozzle is pointed. This likely would be unsuitable for Guo’s intended purpose.

Since there is no “clear and particular” suggestion in either Guo or Arnold to combine these references, these references are not properly combined.

**3. The Guo/Arnold Combination, Or Even The Arnold Nozzle Taken Alone, Is Not Properly Combined With The Jet-All Method**

As discussed above, the Jet-All brochure depicts the Jet-All sprayer directing a spray away from the user. The Jet-All sprays appear to be directed substantially perpendicular and upward relative to the nozzle axis, and the Jet-All is never shown as being used with the nozzle axis substantially horizontal. Instead, the nozzle axis is shown as tilted forward so that the spray is directed away from the user. This is not surprising, as one of the important aspects of the Jet-All device is that it allows spraying under leaves “without spray back on the user.”<sup>41</sup> If a user were to use a Guo/Arnold combination device, or even a Jet-All device with an Arnold nozzle, in accordance with the method as shown by the Jet-All brochure, the spray from the underside of the nozzle *would be directed towards the user*. The Jet-All brochure expressly teaches that this is undesirable. Thus, these references teach against combination and are not properly combined.

**4. None Of The Cited References Explicitly Teach The Claimed Method, And The Cited Combination Does Not “Necessarily” Teach The Claimed Method**

Claim 19 requires, *inter alia*, “rotating the apparatus at least about 90° so that the longitudinal axis of the nozzle is moved to a second elevation that remains generally horizontally disposed during rotations; and advancing and retracting the nozzle generally horizontally at the

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<sup>40</sup> Arnold, Col. 2, ll. 45-52.

<sup>41</sup> Jet-All Brochure,

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second elevation.” The Examiner states that Arnold as modified by Jet-All “inherently teaches rotating the apparatus at least about 90° so that the longitudinal axis of the nozzle is moved to a second elevation but remains generally horizontally disposed during rotation and advancing and retracting the nozzle generally horizontally at the second elevation to efficiently and effectively treat all size plants.”<sup>42</sup>

The Examiner’s contentions regarding inherency are substantially the same as those in connection with Claims 36 – 38 as discussed above. As such, this assertion of inherency fails for the same reasons set forth above in connection with Claims 36 - 38.

**5. The Examiner Has Not Established A Prima Facie Case Of Obviousness.**

Combination of references for an obviousness rejection requires a “clear and particular” teaching in the references suggesting such combination. Further, an assertion of “obviousness” requires that the references teach all claim limitations. Since the Examiner has not identified a motivation to combine the Arnold, Guo and Jet-All references, since the Examiner has not presented facts sufficient to support her inherency arguments, and since the cited references do not teach all of the claim limitations, Applicant respectfully contends that the Examiner’s rejection of these claims should be reversed.

**D. Evidence Of Long-Felt, Unsolved Need Rebutts Any Prima Facie Evidence Of Obviousness**

Even if the Examiner has established a *prima facie* case of obviousness, that showing has been rebutted because Applicant’s invention satisfies a long-felt need not solved by others.

Secondary considerations of non-obviousness, such as long-felt but unsolved need, must always be considered in determining whether the claimed design would have been obvious over the prior art.<sup>43</sup> Indeed, such evidence is often the most significant and persuasive evidence on the issue of non-obviousness. As explained by the U.S. Court of Appeals for the Federal Circuit:

[E]vidence of secondary considerations may often be the most probative and cogent evidence in the record. It may often establish that an invention appearing to have been obvious in light of the prior art was not. It is to be considered as part

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<sup>42</sup> Office Action dated 9/24/04, page 5.

<sup>43</sup> M.P.E.P. § 2141.

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of all the evidence, not just when the decision maker remains in doubt after reviewing the art.<sup>44</sup>

According to the M.P.E.P., establishing long-felt need depends on the following factors:

First, the need must have been a persistent one that was recognized by those of ordinary skill in the art. . . .

Second, the long-felt need must not have been satisfied by another before the invention by applicant. . . .

Third, the invention must in fact satisfy the long-felt need.<sup>45</sup>

Applicant's claimed invention satisfies these factors. This is further evidence that Applicant's claimed invention is nonobvious.

During prosecution of the application, Applicant submitted a Declaration in which the Applicant describes a Test Program with the National Home Gardening Club in which Applicant's product embodying the claimed invention (marketed as "The Bug Blaster™") was evaluated by Club Members. Since the results of the Test Program evaluations were positive, The Bug Blaster™ became a recommended product of the National Home Gardening Club, and the Test Program results were published in the Club's periodical, "Gardening How-to".<sup>46</sup>

Pursuant to Exhibit B of the Declaration, several evaluation forms of Club Members from the Test Program are attached. These forms illustrate that there has long been a recognized need for easy removal of insects from plants using water without pesticide; others have tried to satisfy this need, but have failed to come up with an easy and effective way to do it; and The Bug Blaster™ satisfies this need.

The following statements are excerpts from the forms:

Wow! This is great! Now I can blast those bad bugs on the back of the leaves without going through all the contortions trying to reach them with an ordinary stream nozzle. Sure makes it easier on this old back.<sup>47</sup>

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<sup>44</sup> *Simmons Fastener Corp. v. Illinois Tool Works, Inc.*, 739 F.2d 1573, 1575, 222 USPQ 744, 745 (Fed. Cir. 1984).

<sup>45</sup> M.P.E.P. §716.04 (emphasis added).

<sup>46</sup> The Declaration and Exhibits, which were submitted to the Patent Office in 2003, are included in the Appendix.

<sup>47</sup> Declaration of Patrick O'Donnell, November 8, 2003, Exhibit B, Member Number: 70057991 (emphasis added).

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The Blaster is easy to use all instructions advise spray bottom of the leaves. This is so easy with the Bug Blaster and so effective. I have 21 rose bushes, using Bug Blaster it only took a few moments per bush so easy.<sup>48</sup>

The Bug Blaster is the best! I can blast away the garden pests without harming the plants and without using pesticides, very effective. I would recommend it to all my fellow club members.<sup>49</sup>

The Bug Blaster is another great tool for my Garden and Orchard. We live in a very dusty place and since the water spray goes under and over the plants and small trees, I have a healthier and cleaner Garden. Thank you for the Bug Blaster.<sup>50</sup>

It Really works. I had such trouble with aphids before using this. Now no pesticide needed.<sup>51</sup>

Would definitely recommend. Used on my crepe myrtle trees with aphid problem. Didn't need to use any chemicals and it worked.<sup>52</sup>

I have a 100% organic garden which prospers, but it always seems the aphids will zero in on one or two areas. The regular hose end sprayer doesn't quite do the trick, but this blaster really sent those aphids flying. (The birds had a feast too!).<sup>53</sup>

As soon as I received the Bug Blaster, I put it to work. I had been fighting an infiltration of aphids on my cucumber plants. I used the Bug Blaster on the cucumber plants a few times and my aphid problem is gone. The Bug Blaster is very easy to use and doesn't damage the foliage and no chemicals.<sup>54</sup>

Bug Blaster works far better than using the garden hose method alone — the water jet design really does a great job in the veggie garden and the rose garden where aphids attacked this year's cucumbers and half of my prize roses — I was very happy to see Bug Blaster get whiteflies out of the grape arbor!!<sup>55</sup>

My area (Southern Calif.) has a heavy infestation of white flies; anybody who has to deal with this curse, knows how difficult it is to get rid of them. I have now been using my

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<sup>48</sup> *Id.*, Member Number: 80827711.

<sup>49</sup> *Id.*, Member Number: 70015237.

<sup>50</sup> *Id.*, Member Number: 70043504 (emphasis added).

<sup>51</sup> *Id.*, Member Number: 80748304 (emphasis in original).

<sup>52</sup> *Id.*, Member Number: 81141698 (emphasis in original).

<sup>53</sup> *Id.*, Member Number: 80037362 (emphasis added).

<sup>54</sup> *Id.*, Member Number: 70001955.

<sup>55</sup> *Id.*, Member Number: 70007469 (emphasis added).

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“Bug Blaster” on my 8 ft. tall, heavily infested hybiscus, for fifty consecutive days and . . . almost neary a pesky white fly to be found!! Thank you, Bug Blaster!<sup>56</sup>

This is an excellent alternative to chemical means of getting rid of bugs, and cleans well to. I’ve hesitated to using chemicals so have put up with the bugs. Glad now to have an effective method of being rid of them.<sup>57</sup>

I’ve had a bad whitefly problem this summer and tried safer soap, horticultural oil, and this product. This was by far the funnest and cleanest and least toxic, and worked as well as the other products.<sup>58</sup>

Applicant contends that it is clear from these statements that a need for a reliable way to remove insects from plants without relying on pesticides was well recognized before Applicant’s invention. Further, attempts to solve this need have been made, including spraying plants with a hose or ordinary nozzle, but these attempts have been unsatisfactory, being too difficult, time-consuming, and ineffective. Importantly, hose end sprayers and stream nozzles are substantially the same as the Jet-All sprayer, which directs streams of water only in an upward-and-away-from-the-user direction. Still further, the common theme of the evaluators is to praise The Bug Blaster™ because “It works!”

Applicant contends that the above evidence clearly satisfies the requirements to show that the claimed invention satisfies a long-felt, unsolved need. Specifically, the Test Program evaluations establish that 1) there has long been a recognized need for removing insects from plants without using pesticides; 2) others have tried to address this need, but without success; and 3) Applicant’s claimed invention works for its intended purpose, and satisfies the long-felt, unsolved need. Since this is evidence of nonobviousness, Applicant has rebutted any *prima facie* case of obviousness and provides further reasons why the rejection under 35 U.S.C. § 103 should be reversed.

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<sup>56</sup> *Id.*, Member Number: 70004972.

<sup>57</sup> *Id.*, Member Number: 70036220.

<sup>58</sup> *Id.*, Member Number: 70098546.

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### **VIII. CONCLUSION**

Nothing in the prior art, individually or in combination, discloses, teaches, or suggests the invention recited by the claims on appeal. Further, the prior art references are not properly combined. Still further, Applicant's invention satisfies a long-felt, but unsolved need. Accordingly, Applicant respectfully requests that the Examiner's rejections be reversed and that Claims 19-28 and 33-40 be passed to issuance.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: \_\_\_\_\_

2/1/07

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## **IX. CLAIMS APPENDIX**

### **Claims Currently On Appeal in Application Serial No. 09/557,234**

19. A method for removing insects from and cleaning a plant having leaves, the method comprising:

providing a hand held spraying apparatus having a handle, an elongate body portion, and a nozzle portion at a distal end of the body portion, the nozzle portion having a longitudinal axis and being adapted to direct a generally continuous water flow in a direction outwardly from the axis around substantially the entire circumference of the nozzle axis, the apparatus configured so that moving the handle correspondingly moves the nozzle portion;

providing a source of water under pressure;

placing the spraying apparatus into communication with the source of water under pressure;

positioning the nozzle adjacent an underside of a plant leaf so that a portion of the water directed by the nozzle impacts the leaf underside and the longitudinal axis of the nozzle is generally horizontally disposed at a first elevation;

advancing and retracting the nozzle generally horizontally so that a flow of water impacts the leaf underside along its length;

rotating the apparatus at least about 90° so that the longitudinal axis of the nozzle is moved to a second elevation but remains generally horizontally disposed during rotation; and

advancing and retracting the nozzle generally horizontally at the second elevation.

20. The method of Claim 19, wherein the elongate body portion is substantially straight.

21. The method of Claim 20, wherein the nozzle is adapted to direct a flow of water in a substantially vertical plane.

22. The method of Claim 21, wherein the substantially vertical plane is substantially perpendicular to the nozzle portion and comprising the step of holding the elongate body in a substantially horizontal attitude.

**Appl. No.** : 09/557,234  
**Filed** : April 24, 2000

23. The method of Claim 22, wherein the handle includes a bend point and comprising the step of adjusting the elevation of the body portion by rotating the handle about a proximal end of the handle.

24. The method of Claim 19, additionally comprising advancing and retracting the apparatus into and out of the plant at a plurality of locations so that the flow of water directed by the nozzle simultaneously impacts the top side of a first plant leaf along at least a portion of its length and the underside of a second plant leaf along at least a portion of its length.

25. The method of Claim 19, wherein the nozzle is adapted to create a substantially planar and contiguous wall of water around the circumference of the nozzle.

26. The method of Claim 25, wherein the nozzle is adapted to create two or more substantially planar and contiguous walls of water around the circumference of the nozzle, the walls of water being spaced apart from each other.

27. The method of Claim 25, additionally comprising advancing and retracting the nozzle between leaves of the plant so that the portions of the wall of water simultaneously impact undersides of leaves generally above the nozzle, top sides of leaves generally below the nozzle, and any matter that may be between the leaves of the plant.

28. The method of Claim 27, additionally comprising advancing and retracting the nozzle between leaves of the plant at a plurality of locations.

33. The method of Claim 23, comprising rotating the handle about an axis of rotation generally parallel to the longitudinal axis of the nozzle.

34. The method of Claim 19, wherein water flow is simultaneously directed upwardly and downwardly.

35. The method of Claim 19, wherein the elongate body portion and the nozzle portion are substantially straight and have substantially the same longitudinal axis.

36. A method of removing insects from and cleaning an interior portion of a leafy plant having a first region and a second region that are disposed at different vertical elevations, comprising:

providing a hand held spraying apparatus having a handle, an elongate body having a length of at least about one foot, and a nozzle at a distal end of the elongate body, the nozzle configured to direct a flow of water outwardly generally around a

longitudinal axis of the nozzle portion, the nozzle portion fixedly connected to the handle and being configured to move with the handle;

placing the spraying apparatus into communication with a source of water under pressure;

while maintaining the nozzle axis in a generally horizontal attitude, repeatedly advancing and retracting the nozzle into and out of the interior portion of the plant at a plurality of locations in the first region so that water flow is directed onto undersides of interior leaves of the plant and top sides of interior leaves of the plant;

rotating the apparatus about the handle at least about 90° to change the elevation of the nozzle axis from a position in the first region to a position in the second region without substantially changing its generally horizontal attitude; and

advancing and retracting the nozzle into and out of the interior portion of the plant at a plurality of locations in the second region.

37. The method of Claim 36 additionally comprising holding the elongate body at a generally horizontal attitude while advancing and retracting the nozzle.

38. The method of Claim 37, wherein the elongate body is at least 18 inches long.

39. The method of Claim 23, wherein the handle is bent about 30-60° at the bend point.

40. The method of Claim 19, comprising rotating the apparatus about 90° while keeping the longitudinal axis of the nozzle generally horizontally disposed during rotation, and advancing and retracting the nozzle generally horizontally into and out of the plant a plurality of times while rotating the apparatus

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**Filed** : April 24, 2000

**X. EVIDENCE APPENDIX**

The following items of evidence have been entered into the record, as discussed below.

**A. U.S. Patent No. 3,737,105 To Arnold et al.**

This reference was first used by the Examiner as part of a ground for rejection in the Office Action mailed March 12, 2002.

**B. U.S. Patent No. Des. 425,603 To Guo**

This reference was first used by the Examiner as part of a ground for rejection in the Office Action mailed March 15, 2004.

**C. Kimbrew-Walter Roses Brochure Of Jet-All**

This reference was submitted by Applicant upon filing the present application, and was used as a ground for rejection in the Office Action mailed June 19, 2001.

**D. Declaration of Patrick O'Donnell Under 37 C.F.R. § 1.132 Dated November 8, 2003**

This reference was submitted by Applicant in connection with a Response filed November 26, 2003, and was referred to by the Examiner in the Office Action mailed March 15, 2004.

**1. Exhibit A To 2003 Declaration Of Patrick O'Donnell**

This reference was submitted by Applicant in connection with a Response filed November 26, 2003, and was referred to by the Examiner in the Office Action mailed March 15, 2004.

**2. Exhibit B To 2003 Declaration Of Patrick O'Donnell**

This reference was submitted by Applicant in connection with a Response filed November 26, 2003, and was referred to by the Examiner in the Office Action mailed March 15, 2004.

**3. Exhibit C To 2003 Declaration Of Patrick O'Donnell**

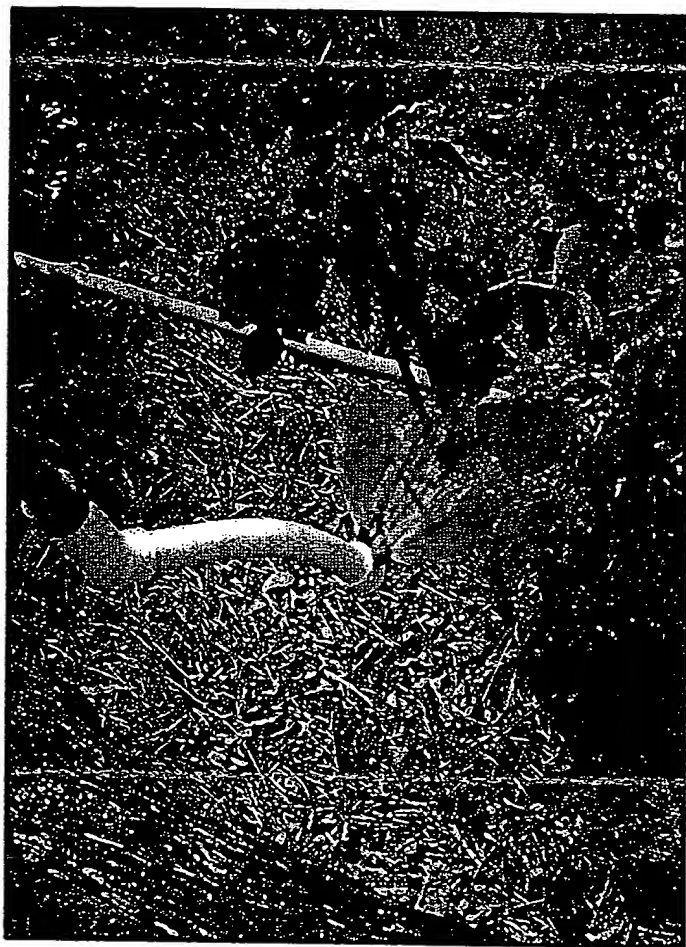
This reference was submitted by Applicant in connection with a Response filed November 26, 2003, and was referred to by the Examiner in the Office Action mailed March 15, 2004.

# Jet-All

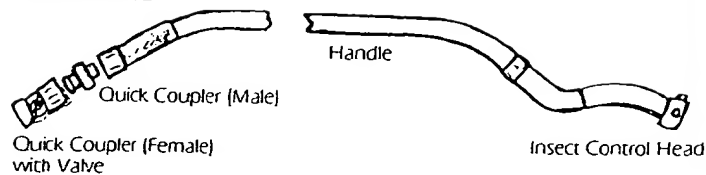
The Jet-All is a necessity for the serious rose grower and the Organic gardener.

The Jet-All has a head designed to aid rose growers in the control of insects and spider mites. This unit has three jets positioned on a curved head to permit spraying under the leaves of

miniature roses as well as the taller varieties without spray back on the user. The handle has a control valve to establish the desired pressure and a quick coupler for ease of use.



## Jet-All



Use handy order blank on reverse side today!

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# Jet-All

**Kimbrew-Walter Roses**

Route 2, Box 172

Grand Saline, Texas 75140

(903) 829-2968

Name \_\_\_\_\_

Address \_\_\_\_\_

City, State, Zip \_\_\_\_\_

Please send \_\_\_\_\_ Jet-All units @ \$29.95 each (Plus \$5.00 shipping. If in Texas, add state sales tax of 6¼%.) Check or money order accepted

# Jet-All

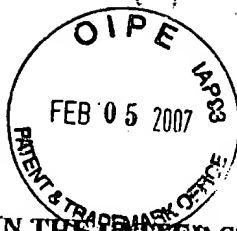
**Kimbrew-Walter Roses**

Route 2, Box 172

Grand Saline, Texas 75140

(903) 829-2968

PODON.001A



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Patrick J. O'Donnell  
Appl. No. : 09/557,234  
Filed : April 24, 2000  
For : METHOD AND APPARATUS  
FOR DISLODGING INSECTS  
FROM PLANTS  
Examiner : A. Valenti  
Group Art Unit : 3643

DECLARATION OF PATRICK O'DONNELL  
UNDER 37 C.F.R. § 1.132

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

I, Patrick O'Donnell, hereby declare that:

1. I believe that I am the original and sole inventor of the subject matter described and claimed in the above-captioned application.
2. I currently market a method and apparatus for dislodging insects from plants under the trade name "THE BUG BLASTER™". The Bug Blaster™ method and apparatus provides a hand held spraying apparatus having a handle, an elongate body portion, and a nozzle portion at a distal end of the body portion. The nozzle portion has a longitudinal axis and is adapted to direct water flow outwardly around the circumference of the nozzle axis. The apparatus is configured so that moving the handle correspondingly moves the nozzle portion. Users are taught to connect the spraying apparatus to a source of pressurized water, position the nozzle adjacent an underside of a plant leaf so that a portion of the water directed by the nozzle impacts the leaf underside and the longitudinal axis of the nozzle is generally horizontally disposed at a first elevation, and advancing and retracting the nozzle generally horizontally so that a flow of water impacts the leaf underside along its length. Users are further taught to rotate the apparatus at least about 90° so

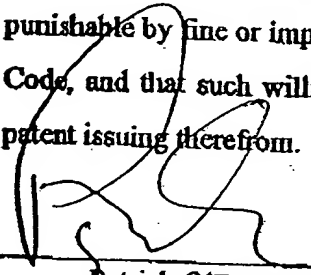
Appl. No. : 09/557,234  
Filed : April 24, 2000

that the longitudinal axis of the nozzle is moved to a second elevation but remains generally horizontally disposed during rotation, and advance and retract the nozzle generally horizontally at the second elevation. A copy of instructional materials showing The Bug Blaster™ method and apparatus is attached as Exhibit A.

3. I recently enrolled in a Test Program with the National Gardening Club to test The Bug Blaster™. On information and belief, the National Gardening Club includes Members that are highly motivated gardeners. As part of the Test Program, I supplied several Club Members with The Bug Blaster™ method and apparatus. The Club Members used and evaluated The Bug Blaster™. Copies of several evaluation forms are attached hereto as Exhibit B.

4. I submitted to the Test Program with the understanding that if the Club Member evaluations were positive, The Bug Blaster™ method and apparatus would become a recommended product of The National Gardening Club, and the Test Program results would be published in the Club's periodical, "Gardening How-to". In fact, the Test Program results were published in the March/April 2003 issue of "Gardening How-to" (copy attached as Exhibit C), and The Bug Blaster™ has become a recommended product of the Club as a result of the Test Program.

5. I declare that all statements made herein of my knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful, false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful, false statements may jeopardize the validity of the application or patent issuing therefrom.

  
Patrick O'Donnell

Date: 11-8-03

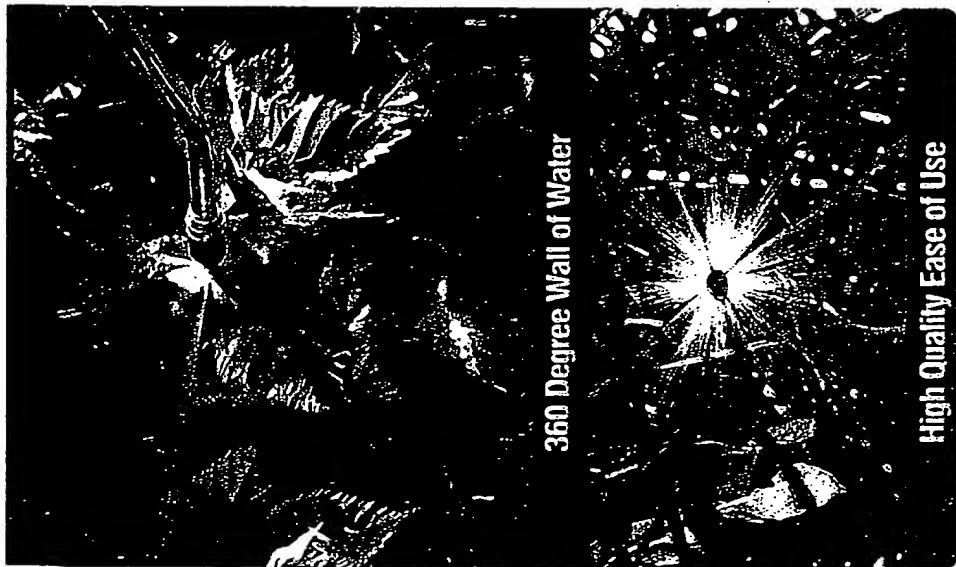
**2003 DECLARATION**

**EXHIBIT A**

The key to the **Bug Blasters** superior performance to any other spraying tool is it's ability to work at the surface and into the center of your plants at any height hitting the underside of the leaves.

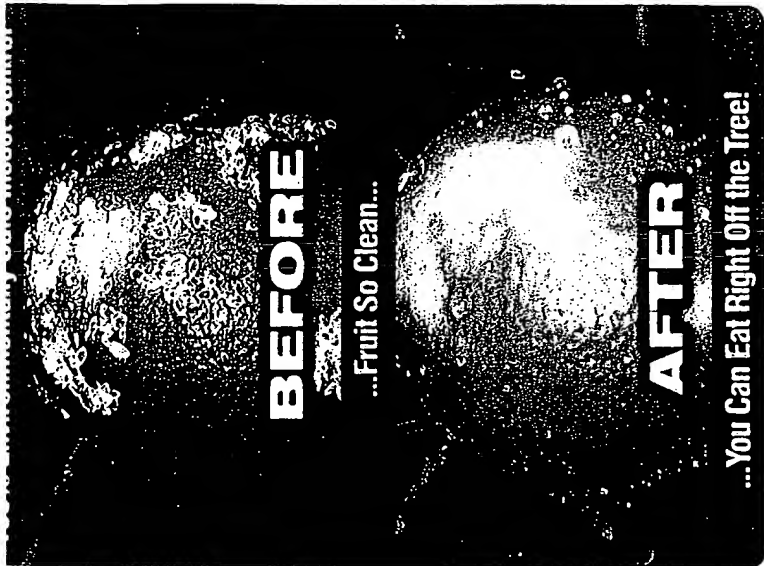


To reach over-head areas simply rotate & lift from the ground up



The **Bug Blaster** is 100% environmentally safe and user-friendly. For those who refuse to use pesticides because they present a potential risk to children, pets and even to the plants they are supposedly protecting, **The Bug Blaster** offers gardeners an inexpensive option.

"After only one application, the Bug Blaster devastates the pests life cycle from egg to adult," explains **Bug Blaster** inventor Patrick O'Donnell, a licensed landscape contractor. "With only a few additional treatments, plants regain complete health," he adds.



For delicate plants, restrict the flow; for hardy plants or heavy infestation, just blast away! **The Bug Blaster** will annihilate only soft-bodied bugs. Strong environmentally helpful bugs such as ladybugs remain unharmed.

Gardeners can maintain attractive yards and healthy gardens while solving their whitely problem. **The Bug Blaster** also works equally well on aphids, mealy bugs, spider mites and more. It also rejuvenates and cleans both indoor and outdoor plants of sooty mold, dust, dirt, spider webs and old or unhealthy leaves which interfere with photosynthesis.

Just wave the Bug Blaster wand and create magic in your garden!

**2003 DECLARATION**

**EXHIBIT B**

Member Name: Edward M Jensen

Member Number: 80827711

Product tested: Bug Blaster

Completely blacken the circle indicating your choice ( LIKE THIS → ● )

Would you recommend the product to fellow Club members? ● Yes ○ No

The suggested retail price is \$24.95 (30")

At this price, do you feel this product is a good value? ● Yes ○ No

Please rate the product tested on the criteria listed below. Due to the diversity of products in the test program, some of the criteria may not be applicable. In such cases, please select the "N/A" circle. **COMPLETELY BLACKEN THE CIRCLE INDICATING YOUR CHOICE.**

	Poor	Fair	Good	Excellent	N/A
Ease of Use	○	○	●	○	○
Clarity of Instructions	○	○	○	●	○
Design	○	○	●	○	○
Performance	○	○	○	●	○
Durability	○	○	○	●	○
Rated against similar products	○	○	○	○	●
Germination/Growth	○	○	○	○	●
Bloom or vegetable production	○	○	○	○	●
Appearance	○	○	○	●	○
Effectiveness	○	○	○	●	○
Overall Rating	○	○	○	●	

Please use this section to describe your main reasons for either recommending or not recommending the product. Excerpts from this report may be published in a future issue of Gardening How-To magazine, the Club's web site or in the manufacturers marketing and advertising campaigns.

*The Bug Blaster is easy to use all instructions advise spray bottom of the leaves. This is so easy with the Bug Buster and so effective. Most instructions for aphids is spray with hose well Bug Blaster does a better job. I have 21 rose bushes using Bug Blaster it only took a few moments per bush so easy.*

Best feature(s): *Ease of handling, light weight*

Suggested Improvement(s): *Maybe a little longer?*

Additional Comments

*Construction work across the road dust and dirt was no problem with Bug Buster. Thank you.*

**Thank you for participating in the Garden Club Product Test Program**

To participate in another product test, you must submit a new profile. Please call 1-800-324-8454 to order a profile or go to the club website at [gardeningclub.com](http://gardeningclub.com) and submit a profile electronically.

Member Name: NIGEL ANDREW

Member Number: 70015237

Product tested: Bug Blaster

Completely blacken the circle indicating your choice ( LIKE THIS → ● )

Would you recommend the product to fellow Club members? ☒ Yes ☐ No

The suggested retail price is \$24.95 (30")

At this price, do you feel this product is a good value? ☒ Yes ☐ No

Please rate the product tested on the criteria listed below. Due to the diversity of products in the test program, some of the criteria may not be applicable. In such cases, please select the "N/A" circle. **COMPLETELY BLACKEN THE CIRCLE INDICATING YOUR CHOICE.**

	Poor	Fair	Good	Excellent	N/A
Ease of Use	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Clarity of Instructions	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Design	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Performance	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Durability	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Rated against similar products	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Germination/Growth	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Bloom or vegetable production	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Appearance	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Effectiveness	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Overall Rating	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>

Please use this section to describe your main reasons for either recommending or not recommending the product. Excerpts from this report may be published in a future issue of Gardening How-To magazine, the Club's web site or in the manufacturers marketing and advertising campaigns.

*The Bug Blaster is the best! I can blast away the garden pests without harming the plants + without using pesticides. Very effective I would recommend it to all my fellow club members.*

Best feature(s): *long handle to get the hard to reach places*

Suggested Improvement(s): *None! Its perfect*

Additional Comments

*Thanks for choosing me to test this product*

**Thank you for participating in the Garden Club Product Test Program**

To participate in another product test, you must submit a new profile. Please call 1-800-324-8454 to order a profile or go to the club website at [gardeningclub.com](http://gardeningclub.com) and submit a profile electronically.

Member Name: Herta L. Isfeld

Member Number: 70043504

Product tested: Bug Blaster

Completely blacken the circle indicating your choice ( LIKE THIS → ● )

Would you recommend the product to fellow Club members? ● Yes ○ No

The suggested retail price is \$24.95 (30")

At this price, do you feel this product is a good value? ● Yes ○ No

Please rate the product tested on the criteria listed below. Due to the diversity of products in the test program, some of the criteria may not be applicable. In such cases, please select the "N/A" circle. **COMPLETELY BLACKEN THE CIRCLE INDICATING YOUR CHOICE.**

	Poor	Fair	Good	Excellent	N/A
Ease of Use	○	○	●	○	○
Clarity of Instructions	○	○	●	○	○
Design	○	○	●	○	○
Performance	○	○	●	○	○
Durability	○	○	○	●	○
Rated against similar products	○	●	○	○	○
Germination/Growth	○	○	○	○	●
Bloom or vegetable production	○	○	○	○	●
Appearance	○	○	○	○	●
Effectiveness	○	○	○	●	○
Overall Rating	○	○	●	○	

Please use this section to describe your main reasons for either recommending or not recommending the product. Excerpts from this report may be published in a future issue of *Gardening How-To* magazine, the Club's web site or in the manufacturers marketing and advertising campaigns.

*The Bug Blaster is another great tool for my Garden and Orchard. We live in a very dusty Place and since the water spray goes under and over the plants and small trees. I have a healthier and cleaner Garden. Thank you for the Bug blaster*

Best feature(s): *The spraying ability*

Suggested Improvement(s): *none*

Additional Comments

**Thank you for participating in the Garden Club Product Test Program**

To participate in another product test, you must submit a new profile. Please call 1-800-324-8454 to order a profile or go to the club website at [gardeningclub.com](http://gardeningclub.com) and submit a profile electronically.

Member Name: MS Kathy, Steuernagel

Member Number: 80748304

Product tested: Bug Blaster

Completely blacken the circle indicating your choice ( LIKE THIS → ● )

Would you recommend the product to fellow Club members? ☒ Yes ☐ No

The suggested retail price is \$24.95 (30")

At this price, do you feel this product is a good value? ☒ Yes ☐ No

Please rate the product tested on the criteria listed below. Due to the diversity of products in the test program, some of the criteria may not be applicable. In such cases, please select the "N/A" circle. **COMPLETELY BLACKEN THE CIRCLE INDICATING YOUR CHOICE.**

	Poor	Fair	Good	Excellent	N/A
Ease of Use	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Clarity of Instructions	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Design	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Performance	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Durability	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Rated against similar products	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Germination/Growth	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Bloom or vegetable production	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Appearance	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Effectiveness	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Overall Rating	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>

Please use this section to describe your main reasons for either recommending or not recommending the product. Excerpts from this report may be published in a future issue of *Gardening How-To* magazine, the Club's web site or in the manufacturers marketing and advertising campaigns.

If Really works. I had such trouble with aphids before using this. Now no pesticide needed

Best feature(s):

Fits my small hand

Suggested Improvement(s):

of

Additional Comments

Thank you!

**Thank you for participating in the Garden Club Product Test Program**

To participate in another product test, you must submit a new profile. Please call 1-800-324-8454 to order a profile or go to the club website at [gardeningclub.com](http://gardeningclub.com) and submit a profile electronically.

Member Name: TAMI SCHNETZ

Member Number: 81141698

Product tested: Bug Blaster

Completely blacken the circle indicating your choice ( LIKE THIS → ● )

Would you recommend the product to fellow Club members? ☒ Yes ☐ No

The suggested retail price is \$24.95 (30")

At this price, do you feel this product is a good value? ☒ Yes ☐ No

Please rate the product tested on the criteria listed below. Due to the diversity of products in the test program, some of the criteria may not be applicable. In such cases, please select the "N/A" circle. **COMPLETELY BLACKEN THE CIRCLE INDICATING YOUR CHOICE.**

	Poor	Fair	Good	Excellent	N/A
Ease of Use	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Clarity of Instructions	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Design	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Performance	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Durability	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Rated against similar products	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Germination/Growth	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Bloom or vegetable production	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Appearance	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Effectiveness	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Overall Rating	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>

Please use this section to describe your main reasons for either recommending or not recommending the product. Excerpts from this report may be published in a future issue of Gardening How-To magazine, the Club's web site or in the manufacturers marketing and advertising campaigns.

Would definitely recommend. Used on my crepe myrtle trees with aphid problem. Didn't need to use any chemicals and it worked.

Best feature(s): water pressure design strong enough to "blast" bugs but doesn't damage foliage

Suggested Improvement(s): none

Additional Comments

great garden tool addition

**Thank you for participating in the Garden Club Product Test Program**

To participate in another product test, you must submit a new profile. Please call 1-800-324-8454 to order a profile or go to the club website at [gardeningclub.com](http://gardeningclub.com) and submit a profile electronically.

Member Name: Linda Wright

Member Number: 80037362

Product tested: Bug Blaster

Completely blacken the circle indicating your choice ( LIKE THIS → ● )

Would you recommend the product to fellow Club members? ● Yes ○ No

The suggested retail price is \$24.95 (30")

At this price, do you feel this product is a good value? ● Yes ○ No

Please rate the product tested on the criteria listed below. Due to the diversity of products in the test program, some of the criteria may not be applicable. In such cases, please select the "N/A" circle. **COMPLETELY BLACKEN THE CIRCLE INDICATING YOUR CHOICE.**

	Poor	Fair	Good	Excellent	N/A
Ease of Use	○	○	○	●	○
Clarity of Instructions	○	○	○	●	○
Design	○	○	○	●	○
Performance	○	○	○	●	○
Durability	○	○	○	●	○
Rated against similar products	○	○	○	●	○
Germination/Growth	○	○	○	○	●
Bloom or vegetable production	○	○	○	○	●
Appearance	○	○	○	○	●
Effectiveness	○	○	○	●	○
Overall Rating	○	○	○	●	○

Please use this section to describe your main reasons for either recommending or not recommending the product. Excerpts from this report may be published in a future issue of Gardening How-To magazine, the Club's web site or in the manufacturers marketing and advertising campaigns.

If I have a 100% organic garden which prospers, but it always  
seems the aphids will zero in on one or two areas. The regular  
hose end sprayer doesn't quite do the trick, but this blaster  
really sent those aphids flying. (The birds had a feast too!)

Best feature(s): totally organic pest control

Suggested Improvement(s): maybe a shield near the handle to  
keep the user dry

Additional Comments

**Thank you for participating in the Garden Club Product Test Program**

To participate in another product test, you must submit a new profile. Please call 1-800-324-8454 to order a profile or go to the club website at [gardeningclub.com](http://gardeningclub.com) and submit a profile electronically.

Member Name: DARLE E LUKKA

Member Number: 70001955

Product tested: Bug Blaster

Completely blacken the circle indicating your choice ( LIKE THIS → ● )

Would you recommend the product to fellow Club members?    ● Yes    ○ No

The suggested retail price is \$24.95 (30")

At this price, do you feel this product is a good value?    ● Yes    ○ No

Please rate the product tested on the criteria listed below. Due to the diversity of products in the test program, some of the criteria may not be applicable. In such cases, please select the "N/A" circle. **COMPLETELY BLACKEN THE CIRCLE INDICATING YOUR CHOICE.**

	<u>Poor</u>	<u>Fair</u>	<u>Good</u>	<u>Excellent</u>	<u>N/A</u>
Ease of Use	○	○	○	●	○
Clarity of Instructions	○	○	○	●	○
Design	○	○	●	○	○
Performance	○	○	○	●	○
Durability	○	○	●	○	○
Rated against similar products	○	○	○	○	●
Germination/Growth	○	○	○	○	●
Bloom or vegetable production	○	○	○	○	●
Appearance	○	○	●	○	○
Effectiveness	○	○	○	●	○
Overall Rating	○	○	○	●	

Please use this section to describe your main reasons for either recommending or not recommending the product. Excerpts from this report may be published in a future issue of Gardening How-To magazine, the Club's web site or in the manufacturers marketing and advertising campaigns.

As soon as I received the Bug Blaster, I put it to work. I had been fighting an infestation of aphids on my cucumber plants. I used the Bug Blaster on the cucumber plants a few times & my aphid problem is gone. The Bug Blaster is very easy to use & doesn't damage the foliage & no chemicals.

Best feature(s): The best feature is the water flow valve.

Suggested Improvement(s):

Additional Comments

**Thank you for participating in the Garden Club Product Test Program**

To participate in another product test, you must submit a new profile. Please call 1-800-324-8454 to order a profile or go to the club website at [gardeningclub.com](http://gardeningclub.com) and submit a profile electronically.

Member Name: Ronald Winkler

Member Number: 70007469

Product tested: Bug Blaster

Completely blacken the circle indicating your choice ( LIKE THIS → ● )

Would you recommend the product to fellow Club members? ● Yes ○ No

The suggested retail price is \$24.95 (30")

At this price, do you feel this product is a good value? ● Yes ○ No

Please rate the product tested on the criteria listed below. Due to the diversity of products in the test program, some of the criteria may not be applicable. In such cases, please select the "N/A" circle. **COMPLETELY BLACKEN THE CIRCLE INDICATING YOUR CHOICE.**

	Poor	Fair	Good	Excellent	N/A
Ease of Use	○	○	●	○	○
Clarity of Instructions	○	○	●	○	○
Design	○	○	○	●	○
Performance	○	○	○	●	○
Durability	○	○	○	●	○
Rated against similar products	○	○	○	●	○
Germination/Growth	○	○	○	○	●
Bloom or vegetable production	○	○	○	○	●
Appearance	○	○	○	●	○
Effectiveness	○	○	○	●	○
Overall Rating	○	○	○	●	○

Please use this section to describe your main reasons for either recommending or not recommending the product. Excerpts from this report may be published in a future issue of Gardening How-To magazine, the Club's web site or in the manufacturers marketing and advertising campaigns.

BUG BLASTER WORKS FAR BETTER THAN USING THE GARDEN HOSE METHOD ALONE - THE WATER JET DESIGN REALLY DOES A GREAT JOB IN THE VEGGIE GARDEN & THE ROSE GARDEN WHERE APHIDS ATTACKED THIS YEAR'S CUCUMBERS & HALF OF MY PRIZE ROSES - I WAS VERY HAPPY TO SEE BUG BLASTER GET WHITEFLIES OUT OF THE GRAPES ARBOR !!

Best feature(s): WATER JET DESIGN + WATER TURN-OFF ATTACHMENT LEVER

Suggested Improvement(s): A SLIGHT BEND IN THE PIPE NEAR THE HOSE CONNECTION MIGHT MAKE IT EASIER TO GET IN AND OUT OF HARD-TO-REACH PLACES, ESPECIALLY IF THE ANGLE COULD BE ADJUSTED.

Additional Comments DID NOT WORK ON THE WILLOW - THOSE SKINNY LEAVES JUST WHIRLED AROUND WHEN THE WATER JET HIT. NOT SURE HOW DIAGRAM SHOWING WRIST

**Thank you for participating in the Garden Club Product Test Program**

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MEANT I SHOULD BE DOING... I THINK IT COULD BE A LITTLE CLEARER

Member Name: Margalita King

Member Number: 70004972

Product tested: Bug Blaster

Completely blacken the circle indicating your choice ( LIKE THIS → ● )

Would you recommend the product to fellow Club members? ● Yes ○ No

The suggested retail price is \$24.95 (30")

At this price, do you feel this product is a good value? ● Yes ○ No

Please rate the product tested on the criteria listed below. Due to the diversity of products in the test program, some of the criteria may not be applicable. In such cases, please select the "N/A" circle. **COMPLETELY BLACKEN THE CIRCLE INDICATING YOUR CHOICE.**

	Poor	Fair	Good	Excellent	N/A
Ease of Use	○	○	○	●	○
Clarity of Instructions	○	○	○	●	○
Design	○	○	○	●	○
Performance	○	○	○	●	○
Durability	○	○	○	●	○
Rated against similar products	○	○	○	●	○
Germination/Growth	○	○	○	○	●
Bloom or vegetable production	○	○	○	○	●
Appearance	○	○	○	●	○
Effectiveness	○	○	○	●	○
Overall Rating	○	○	○	●	○

Please use this section to describe your main reasons for either recommending or not recommending the product. Excerpts from this report may be published in a future issue of Gardening How-To magazine, the Club's web site or in the manufacturers marketing and advertising campaigns.

My area (Southern Calif.) has a heavy infestation of white flies; anybody who has to deal with this curse, knows how difficult it is to get rid of them. I have now been using my "Bug Blaster" on my 8 ft. tall, heavily infested hibiscus, for fifty consecutive days and ... almost nearly a pesky white fly to be found!!  
Thank you, Bug Blaster!

Best feature(s): Ease of use

Suggested Improvement(s): \_\_\_\_\_

Additional Comments

Anybody who would like to use an organic method to eradicate garden pests should seriously consider "Bug Blaster" -

Thank you for participating in the Garden Club Product Test Program

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Member Name: JACQUE MUNROE

Member Number: 70036220

Product tested: Bug Blaster

Completely blacken the circle indicating your choice ( LIKE THIS → ● )

Would you recommend the product to fellow Club members? ● Yes ○ No

The suggested retail price is \$24.95 (30")

At this price, do you feel this product is a good value? ● Yes ○ No

Please rate the product tested on the criteria listed below. Due to the diversity of products in the test program, some of the criteria may not be applicable. In such cases, please select the "N/A" circle. **COMPLETELY BLACKEN THE CIRCLE INDICATING YOUR CHOICE.**

	Poor	Fair	Good	Excellent	N/A
Ease of Use	○	○	●	○	○
Clarity of Instructions	○	○	○	●	○
Design	○	○	●	○	○
Performance	○	○	●	○	○
Durability	○	○	●	○	○
Rated against similar products	○	○	○	○	●
Germination/Growth	○	○	○	○	●
Bloom or vegetable production	○	○	○	○	●
Appearance	○	○	○	●	○
Effectiveness	○	○	●	○	○
Overall Rating	○	○	●	○	

Please use this section to describe your main reasons for either recommending or not recommending the product. Excerpts from this report may be published in a future issue of *Gardening How-To* magazine, the Club's web site or in the manufacturers marketing and advertising campaigns.

This is an excellent alternative to chemical means of getting rid of bugs. And cleans well too. I've hesitated to using chemicals so have put up with the bugs. Glad now to have an effective method of being rid of them. My only complaint would be about getting drenched in the process. But in the summer that's refreshing. Got rain gear?

Best feature(s): Hand grip for easy holding, on/off valve

Suggested Improvement(s): \_\_\_\_\_

Additional Comments

**Thank you for participating in the Garden Club Product Test Program**

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Member Name: Bev J Bolduc-Aldridge

Member Number: 70034412

Product tested: Bug Blaster

Completely blacken the circle indicating your choice ( LIKE THIS → ● )

Would you recommend the product to fellow Club members? ☒ Yes ☐ No

The suggested retail price is \$24.95 (30")

At this price, do you feel this product is a good value? ☒ Yes ☐ No

Please rate the product tested on the criteria listed below. Due to the diversity of products in the test program, some of the criteria may not be applicable. In such cases, please select the "N/A" circle. **COMPLETELY BLACKEN THE CIRCLE INDICATING YOUR CHOICE.**

	<u>Poor</u>	<u>Fair</u>	<u>Good</u>	<u>Excellent</u>	<u>N/A</u>
Ease of Use	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Clarity of Instructions	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Design	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Performance	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Durability	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Rated against similar products	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Germination/Growth	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Bloom or vegetable production	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Appearance	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Effectiveness	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Overall Rating	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>

Please use this section to describe your main reasons for either recommending or not recommending the product. Excerpts from this report may be published in a future issue of Gardening How-To magazine, the Club's web site or in the manufacturers marketing and advertising campaigns.

I used the Bug Blaster on my Hibiscus to remove Aphids and within 2 weeks  
of testing the Bug Blaster the aphids were gone and it didn't seem to  
harm the plant or the praying mantises, who are now looking for  
other food.

Best feature(s): The Bug Blaster cleared the dead blossom from inside  
the plant without me having to reach way in.

Suggested Improvement(s): \_\_\_\_\_

Additional Comments  
\_\_\_\_\_  
\_\_\_\_\_

**Thank you for participating in the Garden Club Product Test Program**

To participate in another product test, you must submit a new profile. Please call 1-800-324-8454 to order a profile or go to the club website at [gardeningclub.com](http://gardeningclub.com) and submit a profile electronically.

Member Name: Patricia K Rice

Member Number: 70057991

Product tested: Bug Blaster

Completely blacken the circle indicating your choice ( LIKE THIS → ● )

Would you recommend the product to fellow Club members? ☒ Yes ☐ No

The suggested retail price is \$24.95 (30")

At this price, do you feel this product is a good value? ☐ Yes ☒ No

Please rate the product tested on the criteria listed below. Due to the diversity of products in the test program, some of the criteria may not be applicable. In such cases, please select the "N/A" circle. **COMPLETELY BLACKEN THE CIRCLE INDICATING YOUR CHOICE.**

	Poor	Fair	Good	Excellent	N/A
Ease of Use	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Clarity of Instructions	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Design	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Performance	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Durability	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Rated against similar products	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Germination/Growth	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Bloom or vegetable production	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Appearance	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Effectiveness	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Overall Rating	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>

Please use this section to describe your main reasons for either recommending or not recommending the product. Excerpts from this report may be published in a future issue of Gardening How-To magazine, the Club's web site or in the manufacturers marketing and advertising campaigns.

WOW! THIS IS GREAT! NOW I CAN BLAST THOSE BAD  
BUGS ON THE BACK OF THE LEAVES WITHOUT GOING  
THROUGH ALL THE CONTORTIONS TRYING TO REACH THEM  
WITH AN ORDINARY STREAM NOZZEL. SURE MAKES  
IT EASIER ON THIS OLD BACK.

Best feature(s): EASY GRIP & MANUEVERABILITY

Suggested Improvement(s): DIFFERENT COLORS? VARIOUS  
LENGTHS, SHORTER & LONGER.

Additional Comments

**Thank you for participating in the Garden Club Product Test Program**

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Member Name: MRS Norma J Parry

Member Number: 80673397

Product tested: Bug Blaster

Completely blacken the circle indicating your choice ( LIKE THIS → ● )

Would you recommend the product to fellow Club members? ☒ Yes ☐ No

The suggested retail price is \$24.95 (30")

At this price, do you feel this product is a good value? ☒ Yes ☐ No

Please rate the product tested on the criteria listed below. Due to the diversity of products in the test program, some of the criteria may not be applicable. In such cases, please select the "N/A" circle. **COMPLETELY BLACKEN THE CIRCLE INDICATING YOUR CHOICE.**

	Poor	Fair	Good	Excellent	N/A
Ease of Use	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Clarity of Instructions	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Design	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Performance	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Durability	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Rated against similar products	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Germination/Growth	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Bloom or vegetable production	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Appearance	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Effectiveness	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Overall Rating	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>

Please use this section to describe your main reasons for either recommending or not recommending the product. Excerpts from this report may be published in a future issue of Gardening How-To magazine, the Club's web site or in the manufacturers marketing and advertising campaigns.

*I could hardly wait for the Bug Blaster, it sure changed the leaves and dirt away. There are no insects or weeds on the leaves. I worked the bug blaster in and out of my shrubs. The shrubs are a nice green and shiny.*

Best feature(s): *Easy to use*

Suggested Improvement(s): *none*

Additional Comments

*I'm so glad to have one, I even went next door to do my neighbor, she wants one.*

**Thank you for participating in the Garden Club Product Test Program**

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Member Name: Derry Jwell

Member Number: 70052476

Product tested: Bug Blaster

Completely blacken the circle indicating your choice ( LIKE THIS → ● )

Would you recommend the product to fellow Club members? ● Yes ○ No

The suggested retail price is \$ 24.95 (30")

At this price, do you feel this product is a good value? ○ Yes ● No

Please rate the product tested on the criteria listed below. Due to the diversity of products in the test program, some of the criteria may not be applicable. In such cases, please select the "N/A" circle. **COMPLETELY BLACKEN THE CIRCLE INDICATING YOUR CHOICE.**

	<u>Poor</u>	<u>Fair</u>	<u>Good</u>	<u>Excellent</u>	<u>N/A</u>
Ease of Use	○	○	○	●	○
Clarity of Instructions	○	○	○	●	○
Design	○	○	○	●	○
Performance	○	○	●	○	○
Durability	○	○	○	●	○
Rated against similar products	○	○	○	○	●
Germination/Growth	○	○	○	○	●
Bloom or vegetable production	○	○	○	○	●
Appearance	○	○	○	●	○
Effectiveness	○	○	○	●	○
Overall Rating	○	○	○	●	

Please use this section to describe your main reasons for either recommending or not recommending the product. Excerpts from this report may be published in a future issue of Gardening How-To magazine, the Club's web site or in the manufacturers marketing and advertising campaigns.

I used the Bug Blaster to rid my Lilies of aphids  
and ants that tend them. Used it several times to  
keep both under control. First time I used Bug  
Blaster I sprayed myself till I got used to rotate  
and raised the wand.

Best feature(s): Able to reach the lilies in back

Suggested Improvement(s): Choice of trigger or lever would  
be handy.

Additional Comments

When used as recommended the Bug Blaster  
is very effective.

**Thank you for participating in the Garden Club Product Test Program**

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Member Name: THOMAS KARWIN

Member Number: 80722195

Product tested: Bug Blaster

Completely blacken the circle indicating your choice ( LIKE THIS → ● )

Would you recommend the product to fellow Club members? ● Yes ○ No

The suggested retail price is \$24.95 (30")

At this price, do you feel this product is a good value? ● Yes ○ No

Please rate the product tested on the criteria listed below. Due to the diversity of products in the test program, some of the criteria may not be applicable. In such cases, please select the "N/A" circle. **COMPLETELY BLACKEN THE CIRCLE INDICATING YOUR CHOICE.**

	<u>Poor</u>	<u>Fair</u>	<u>Good</u>	<u>Excellent</u>	<u>N/A</u>
Ease of Use	○	○	●	○	○
Clarity of Instructions	○	○	○	●	○
Design	○	○	○	●	○
Performance	○	○	○	●	○
Durability	○	○	○	●	○
Rated against similar products	○	○	○	●	○
Germination/Growth	○	○	○	○	●
Bloom or vegetable production	○	○	○	○	●
Appearance	○	○	○	●	○
Effectiveness	○	○	○	●	○
Overall Rating	○	○	○	●	○

Please use this section to describe your main reasons for either recommending or not recommending the product. Excerpts from this report may be published in a future issue of *Gardening How-To* magazine, the Club's web site or in the manufacturers marketing and advertising campaigns.

THIS IS AN EXCELLENT SPECIAL-PURPOSE TOOL  
THAT GARDENERS NEED AND WILL USE. THE UNUSUAL  
SPRAY PATTERN REQUIRES A BIT OF PRACTICE  
(OR A RAINCOAT), BUT IT'S JUST WHAT IS  
NEEDED FOR BLASTING BUGS.

Best feature(s): QUALITY CONSTRUCTION

Suggested Improvement(s): \_\_\_\_\_

Additional Comments  
\_\_\_\_\_  
\_\_\_\_\_

**Thank you for participating in the Garden Club Product Test Program**

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Member Name: Mrs Ivy Porter

Member Number: 80930640

Product tested: Bug Blaster

Completely blacken the circle indicating your choice ( LIKE THIS → ● )

Would you recommend the product to fellow Club members? ● Yes ○ No

The suggested retail price is \$24.95 (30")

At this price, do you feel this product is a good value? ○ Yes ● No

Please rate the product tested on the criteria listed below. Due to the diversity of products in the test program, some of the criteria may not be applicable. In such cases, please select the "N/A" circle. **COMPLETELY BLACKEN THE CIRCLE INDICATING YOUR CHOICE.**

	Poor	Fair	Good	Excellent	N/A
Ease of Use	○	○	○	●	○
Clarity of Instructions	○	○	●	○	○
Design	○	○	●	○	○
Performance	○	○	●	○	○
Durability	○	○	●	○	○
Rated against similar products	○	○	●	○	○
Germination/Growth	○	○	○	○	●
Bloom or vegetable production	○	○	○	○	●
Appearance	○	○	●	○	○
Effectiveness	○	○	●	○	○
Overall Rating	○	○	●	○	

Please use this section to describe your main reasons for either recommending or not recommending the product. Excerpts from this report may be published in a future issue of Gardening How-To magazine, the Club's web site or in the manufacturers marketing and advertising campaigns.

THE BEST PART IS THE CONVENIENT EASE OF USE.  
CLEANS THE UNDERSIDE OF SEVERAL SIZED TREES &  
BUSHES THAT I WAS GETTING WHITE FLIES ON. AFTER  
3 DOSES WITH THE BUG BLASTER THEY HAVE RETURNED  
AS OF YET.  
SO MUCH HEALTHIER AND BETTER THAN USING INSECTICIDES <sup>NOT</sup>

Best feature(s): FOAM GRIP IS SO COMFORTABLE TO HOLD

Suggested Improvement(s): LOWER PRICE

Additional Comments

I LOVE THE BRIGHT GREEN COLOR

**Thank you for participating in the Garden Club Product Test Program**

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Member Name: MS NANCY VANDERMEY

Member Number: 70098546

Product tested: Bug Blaster

Completely blacken the circle indicating your choice ( LIKE THIS → ● )

Would you recommend the product to fellow Club members? ● Yes ○ No

The suggested retail price is \$24.95 (30")

At this price, do you feel this product is a good value? ○ Yes ● No

Please rate the product tested on the criteria listed below. Due to the diversity of products in the test program, some of the criteria may not be applicable. In such cases, please select the "N/A" circle. **COMPLETELY BLACKEN THE CIRCLE INDICATING YOUR CHOICE.**

	<u>Poor</u>	<u>Fair</u>	<u>Good</u>	<u>Excellent</u>	<u>N/A</u>
Ease of Use	○	○	○	●	○
Clarity of Instructions	○	○	●	○	○
Design	○	○	●	○	○
Performance	○	○	●	○	○
Durability	○	○	●	○	○
Rated against similar products	○	○	○	○	●
Germination/Growth	○	○	○	○	●
Bloom or vegetable production	○	○	○	○	●
Appearance	○	○	○	●	○
Effectiveness	○	○	●	○	○
Overall Rating	○	○	●	○	

Please use this section to describe your main reasons for either recommending or not recommending the product. Excerpts from this report may be published in a future issue of *Gardening How-To* magazine, the Club's web site or in the manufacturers marketing and advertising campaigns.

I've had a bad whitefly problem This summer and tried safer soap, horticultural oil, and this product. This was by far the funnest and cleanest and least toxic, and worked as well as the other products.

Best feature(s): non toxic

Suggested Improvement(s): -

Additional Comments

**Thank you for participating in the Garden Club Product Test Program**

To participate in another product test, you must submit a new profile. Please call 1-800-324-8454 to order a profile or go to the club website at [gardeningclub.com](http://gardeningclub.com) and submit a profile electronically.

**2003 DECLARATION**

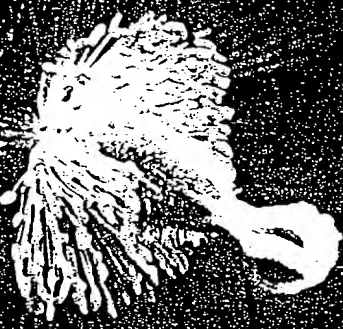
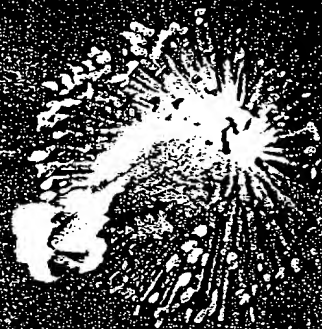
**EXHIBIT C**

March/April 2008

www.gardenmagclub.com

# gardening

## HOW-TO



**Cool Blue Plants**

Seed Starting Steps

**Making Maple Syrup**

Glorious Spring Garden

NATIONAL HOME GARDENING CLUB MAGAZINE

## BUG SPRAYER

The Bug Blaster garden sprayer attaches to your garden hose and helps control all types of insects. The nozzle creates a 360-degree wall of water to blast pests from the tops and bottoms of leaves and clear off sooty mold and dirt. It comes in two sizes or a conversion kit. Bug Blaster, 949-493-3310, [www.theBugBlaster.com](http://www.theBugBlaster.com). \$24.95 for a 30-inch wand.



### TESTER RATINGS

Ease of Use	7.4
Clarity of Instructions	7.8
Effectiveness	7.2
Overall Rating	7.2

Rick Jennings, Fortuna, CA

"It was excellent for washing bugs off my roses and other plants. Its length made it easy to water both my hanging and low-growing plants."

Muriel Rolandson, Highland, CA "I used it on roses and hibiscuses to eliminate aphids. It was effective without using pesticides and it didn't hurt the flower buds. Great for cleaning leaves too!"

## PLANT FOOD

Miracle-Gro Shake 'n Feed Plant Food is a whole new way to feed your plants. Apply this timed-release plant food directly to the soil using the applicator package. Provides constant nutrition to your garden for up to three months. Scotts Miracle-Gro Products, Inc., 800-645-8166, [www.miracle-gro.com](http://www.miracle-gro.com). \$9.99 for 4 1/2 lbs.



### TESTER RATINGS

Clarity of Instructions	8.7
Ease of Use	9.1
Performance	8.4
Overall Rating	8.4

Kathy Wilcox, Hudson, FL "The container was easy to use, mess free, and refillable. I could control exactly where and how much of the product was delivered. The formula didn't burn my plants, and it was easy to rake into the mulch around my plants."

Deborah Earles, Spring Valley, CA "I tried it on a plant that didn't seem to be growing. Within a week it had 3-inch-tall leaf stalks. The blooms in the rest of my garden were also much larger and healthier than last year."

## BUTTERFLY GARDEN

The Butterfly Garden is a seeded rollout mat that contains 20 different varieties of annual and perennial wildflowers for sunny spots. The varieties bloom at different times and provide color all summer. Creative Garden Concepts, 888-246-6287, [www.creativegardenconcepts.com](http://www.creativegardenconcepts.com). \$10.99.



### TESTER RATINGS

Clarity of Instructions	8.6
Germination	5.7
Bloom Production	5.9
Overall Rating	6.1

Deborah Lopicola, East Troy, WI "The butterfly garden was great. The instructions were clear and it was easy to use. Plants germinated quickly and the flowers were beautiful, fragrant, and hardy."

Linda Eddy, Fruitvale, TX "The mat was fast and easy to use. It is versatile—I just cut it to fit my flower bed. The plants were healthy and produced great blooms. The hummingbirds liked it, too!"

## ANT KILLER

Terro Outdoor Ant Killer kills ants and other crawling insects before they move indoors. Shake the granules along the perimeter of your home to create a protective barrier, use it as a spot treatment on ant hills, spread it where ants enter buildings, or apply it to new ant hills. Senoret Chemical Co., store locator at [www.terro.com](http://www.terro.com). \$6.99 for 3-lb. bag.

T. Blanchard, Jefferson City, MO "I had a continual problem with ants along my driveway. After only one application, the ants disappeared. I also applied it near my sliding glass doors where ants come in every year. This year, no ants!"



Shirley Williams, Waupun, WI "My yard was covered with ant hills. After using this product, there were none. It was easy to use, and I liked the design of the shaker bag."

### TESTER RATINGS

Clarity of Instructions	9.0
Ease of Use	8.9
Effectiveness	7.9
Overall Rating	7.9

Appl. No. : 09/557,234  
Filed : April 24, 2000

**XI. RELATED PROCEEDINGS APPENDIX**

Applicant is unaware of any related appeals or interferences.

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